

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5.21.07

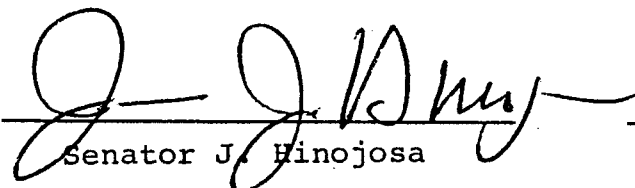
Date

Honorable David Dewhurst
President of the Senate

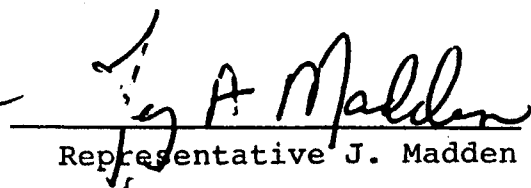
Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

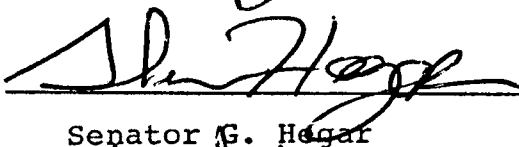
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 103 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



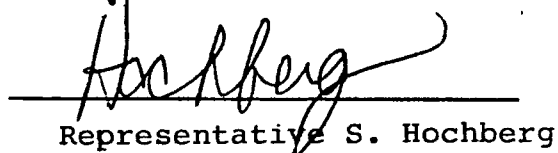
Senator J. Hinojosa



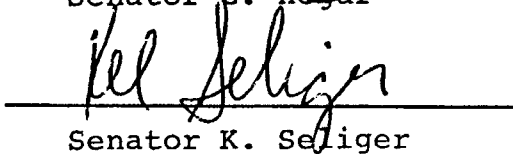
Representative J. Madden



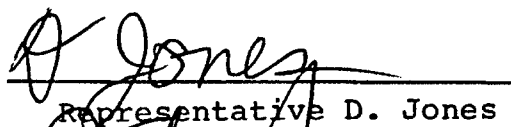
Senator G. Hegar



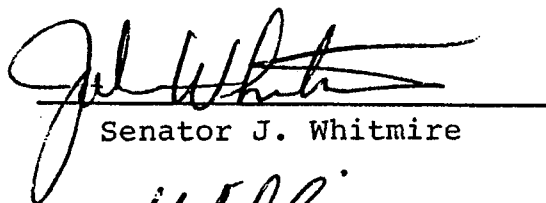
Representative S. Hochberg



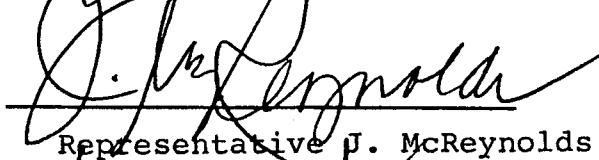
Senator K. Seliger



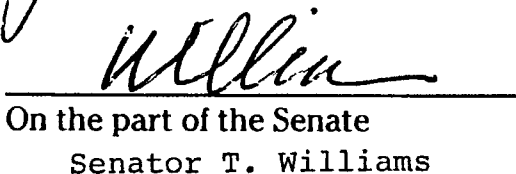
Representative D. Jones



Senator J. Whitmire



Representative J. McReynolds



On the part of the Senate
Senator T. Williams



On the part of the House
Representative L. Phillips

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 103

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Youth Commission and the prosecution of certain offenses and delinquent conduct in the Texas Youth Commission and certain other criminal justice agencies; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

(1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5) investigators of the district attorneys', criminal

1 district attorneys', and county attorneys' offices;

2 (6) law enforcement agents of the Texas Alcoholic
3 Beverage Commission;

4 (7) each member of an arson investigating unit
5 commissioned by a city, a county, or the state;

6 (8) officers commissioned under Section 37.081,
7 Education Code, or Subchapter E, Chapter 51, Education Code;

8 (9) officers commissioned by the General Services
9 Commission;

10 (10) law enforcement officers commissioned by the
11 Parks and Wildlife Commission;

12 (11) airport police officers commissioned by a city
13 with a population of more than 1.18 million that operates an airport
14 that serves commercial air carriers;

15 (12) airport security personnel commissioned as peace
16 officers by the governing body of any political subdivision of this
17 state, other than a city described by Subdivision (11), that
18 operates an airport that serves commercial air carriers;

19 (13) municipal park and recreational patrolmen and
20 security officers;

21 (14) security officers and investigators commissioned
22 as peace officers by the comptroller;

23 (15) officers commissioned by a water control and
24 improvement district under Section 49.216, Water Code;

25 (16) officers commissioned by a board of trustees
26 under Chapter 54, Transportation Code;

27 (17) investigators commissioned by the Texas Medical

1 ~~[State] Board [of Medical Examiners];~~

2 (18) officers commissioned by the board of managers of
3 the Dallas County Hospital District, the Tarrant County Hospital
4 District, or the Bexar County Hospital District under Section
5 281.057, Health and Safety Code;

6 (19) county park rangers commissioned under
7 Subchapter E, Chapter 351, Local Government Code;

8 (20) investigators employed by the Texas Racing
9 Commission;

10 (21) officers commissioned under Chapter 554,
11 Occupations Code;

12 (22) officers commissioned by the governing body of a
13 metropolitan rapid transit authority under Section 451.108,
14 Transportation Code, or by a regional transportation authority
15 under Section 452.110, Transportation Code;

16 (23) investigators commissioned by the attorney
17 general under Section 402.009, Government Code;

18 (24) security officers and investigators commissioned
19 as peace officers under Chapter 466, Government Code;

20 (25) an officer employed by the ~~[Texas]~~ Department of
21 State Health Services under Section 431.2471, Health and Safety
22 Code;

23 (26) officers appointed by an appellate court under
24 Subchapter F, Chapter 53, Government Code;

25 (27) officers commissioned by the state fire marshal
26 under Chapter 417, Government Code;

27 (28) an investigator commissioned by the commissioner

of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;

(29) apprehension specialists and inspectors general commissioned by the Texas Youth Commission as officers under Sections 61.0451 and [~~Section~~] 61.0931, Human Resources Code;

(30) officers appointed by the executive director of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;

(32) commission investigators commissioned by the Texas [~~Commission on~~] Private Security Board under Section 1702.061(f), Occupations Code;

(33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code; and

(34) officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section.

SECTION 2. Article 61.06(c), Code of Criminal Procedure, is amended to read as follows:

(c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the three-year period does not include any period during which the individual who is the subject of the information is:

(1) confined in the institutional division or the state jail division of the Texas Department of Criminal Justice;

1 (2) committed to a secure correctional facility
2 operated by or under contract with the Texas Youth Commission, as
3 defined by Section 51.02, Family Code; or

4 (3) committed to a facility operated by a juvenile
5 board in lieu of being committed to a secure correctional facility
6 operated by or under contract with the Texas Youth Commission.

7 SECTION 3. Article 104.003(a), Code of Criminal Procedure,
8 is amended to read as follows:

9 (a) In a prosecution of a criminal offense or delinquent
10 conduct ~~[felony]~~ committed on property owned or operated by or
11 under contract with ~~[while the actor was a prisoner in the custody~~
12 ~~of]~~ the Texas Department of Criminal Justice or the Texas Youth
13 Commission, or committed by or against a person in the custody of
14 the department or commission while the person is performing a duty
15 away from department or commission property ~~[Corrections or a~~
16 ~~prosecution of an offense committed in the department by any person~~
17 ~~under Chapter 21, Acts of 55th Legislature, Regular Session, 1957~~
18 ~~(Article 6184m, Vernon's Texas Civil Statutes), or Chapter 481,~~
19 ~~Health and Safety Code, or Sections 485.031 through 485.035, Health~~
20 ~~and Safety Code]~~, the state shall reimburse the county for expenses
21 incurred by the county, in an amount that the court determines to be
22 reasonable, for payment of:

23 (1) salaries and expenses of foreign language
24 interpreters and interpreters for deaf persons whose services are
25 necessary to the prosecution;

26 (2) consultation fees of experts whose assistance is
27 directly related to the prosecution;

- 1 (3) travel expenses for witnesses;
- 2 (4) expenses for the food, lodging, and compensation
- 3 of jurors;
- 4 (5) compensation of witnesses;
- 5 (6) the cost of preparation of a statement of facts and
- 6 a transcript of the trial for purposes of appeal;
- 7 (7) if the death of a person is an element of the
- 8 offense, expenses of an inquest relating to the death;
- 9 (8) food, lodging, and travel expenses incurred by the
- 10 prosecutor's staff during travel essential to the prosecution of
- 11 the offense;
- 12 (9) court reporter's fees; and
- 13 (10) the cost of special security officers.

14 SECTION 4. Section 37.203(a), Education Code, is amended to
15 read as follows:

16 (a) The center is advised by a board of directors composed
17 of:

- 18 (1) the attorney general, or the attorney general's
- 19 designee;
- 20 (2) the commissioner, or the commissioner's designee;
- 21 (3) the executive director of the Texas Juvenile
- 22 Probation Commission, or the executive director's designee;
- 23 (4) the executive commissioner [~~director~~] of the Texas
- 24 Youth Commission, or the executive commissioner's [~~director's~~]
- 25 designee;
- 26 (5) the commissioner of the Texas Department of Mental
- 27 Health and Mental Retardation, or the commissioner's designee; and

(6) the following members appointed by the governor with the advice and consent of the senate:

(A) a juvenile court judge;

(B) a member of a school district's board of trustees;

(C) an administrator of a public primary school;

(D) an administrator of a public secondary school;

(E) a member of the state parent-teacher association;

(F) a teacher from a public primary or secondary school;

(G) a public school superintendent who is a member of the Texas Association of School Administrators;

(H) a school district police officer or a peace officer whose primary duty consists of working in a public school; and

(I) two members of the public.

SECTION 5. Section 51.12, Family Code, is amended by adding Subsections (b-1), (c-1), and (m) and amending Subsections (c) and (i) to read as follows:

(b-1) A pre-adjudication secure detention facility may be operated only by:

(1) a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code; or

(2) a private entity under a contract with a governmental unit in this state.

1 (c) In each county, each judge of the juvenile court and a
2 majority of the members of the juvenile board shall personally
3 inspect all public or private ~~[the]~~ juvenile pre-adjudication
4 secure detention facilities ~~[and any public or private juvenile~~
5 ~~secure correctional facilities used for post-adjudication~~
6 ~~confinement]~~ that are located in the county ~~[and operated under~~
7 ~~authority of the juvenile board]~~ at least annually and shall
8 certify in writing to the authorities responsible for operating and
9 giving financial support to the facilities and to the Texas
10 Juvenile Probation Commission that the facilities ~~[they]~~ are
11 suitable or unsuitable for the detention of children. In
12 determining whether a facility is suitable or unsuitable for the
13 detention of children, the juvenile court judges and juvenile board
14 members shall consider:

15 (1) current monitoring and inspection reports and any
16 noncompliance citation reports issued by the Texas Juvenile
17 Probation Commission, including the report provided under
18 Subsection (c-1), and the status of any required corrective
19 actions;

20 (2) current governmental inspector certification
21 regarding the facility's compliance with local fire codes;

22 (3) current building inspector certification
23 regarding the facility's compliance with local building codes;

24 (4) for the 12-month period preceding the inspection,
25 the total number of allegations of abuse, neglect, or exploitation
26 reported by the facility and a summary of the findings of any
27 investigations of abuse, neglect, or exploitation conducted by the

1 facility, a local law enforcement agency, and the Texas Juvenile
2 Probation Commission;

3 (5) the availability of health and mental health
4 services provided to facility residents;

5 (6) the availability of educational services provided
6 to facility residents; and

7 (7) the overall physical appearance of the facility,
8 including the facility's security, maintenance, cleanliness, and
9 environment.

10 (c-1) The Texas Juvenile Probation Commission shall
11 annually inspect each public or private juvenile pre-adjudication
12 secure detention facility. The Texas Juvenile Probation Commission
13 shall provide a report to each juvenile court judge presiding in the
14 same county as an inspected facility indicating whether the
15 facility is suitable or unsuitable for the detention of children in
16 accordance with:

17 (1) the requirements of Subsections (a), (f), and (g);
18 and

19 (2) minimum professional standards for the detention
20 of children in pre-adjudication [~~or post-adjudication~~] secure
21 confinement promulgated by the Texas Juvenile Probation Commission
22 or, at the election of the juvenile board of the county in which the
23 facility is located, the current standards promulgated by the
24 American Correctional Association.

25 (i) Except for [~~a facility operated or certified by the~~
26 ~~Texas Youth Commission or~~] a facility as provided by Subsection
27 (1), a governmental unit or private entity that operates or

contracts for the operation of a juvenile pre-adjudication secure detention facility under Subsection (b-1) [~~or a juvenile post-adjudication secure correctional facility~~] in this state shall:

(1) register the facility annually with the Texas Juvenile Probation Commission; and

(2) adhere to all applicable minimum standards for the facility.

(m) The Texas Juvenile Probation Commission may deny, suspend, or revoke the registration of any facility required to register under Subsection (i) if the facility fails to:

(1) adhere to all applicable minimum standards for the facility; or

(2) timely correct any notice of noncompliance with minimum standards.

SECTION 6. Chapter 51, Family Code, is amended by adding Section 51.125 to read as follows:

Sec. 51.125. POST-ADJUDICATION CORRECTIONAL FACILITIES.

(a) A post-adjudication secure correctional facility for juvenile offenders may be operated only by:

(1) a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code; or

(2) a private entity under a contract with a governmental unit in this state.

(b) In each county, each judge of the juvenile court and a majority of the members of the juvenile board shall personally inspect all public or private juvenile post-adjudication secure

1 correctional facilities that are not operated by the Texas Youth
2 Commission and that are located in the county at least annually and
3 shall certify in writing to the authorities responsible for
4 operating and giving financial support to the facilities and to the
5 Texas Juvenile Probation Commission that the facility or facilities
6 are suitable or unsuitable for the confinement of children. In
7 determining whether a facility is suitable or unsuitable for the
8 confinement of children, the juvenile court judges and juvenile
9 board members shall consider:

10 (1) current monitoring and inspection reports and any
11 noncompliance citation reports issued by the Texas Juvenile
12 Probation Commission, including the report provided under
13 Subsection (c), and the status of any required corrective actions;
14 and

15 (2) the other factors described under Sections
16 51.12(c)(2)-(7).

17 (c) The Texas Juvenile Probation Commission shall annually
18 inspect each public or private juvenile post-adjudication secure
19 correctional facility that is not operated by the Texas Youth
20 Commission. The Texas Juvenile Probation Commission shall provide
21 a report to each juvenile court judge presiding in the same county
22 as an inspected facility indicating whether the facility is
23 suitable or unsuitable for the confinement of children in
24 accordance with minimum professional standards for the confinement
25 of children in post-adjudication secure confinement promulgated by
26 the Texas Juvenile Probation Commission or, at the election of the
27 juvenile board of the county in which the facility is located, the

1 current standards promulgated by the American Correctional
2 Association.

3 (d) A governmental unit or private entity that operates or
4 contracts for the operation of a juvenile post-adjudication secure
5 correctional facility in this state under Subsection (a), except
6 for a facility operated by or under contract with the Texas Youth
7 Commission, shall:

8 (1) register the facility annually with the Texas
9 Juvenile Probation Commission; and

10 (2) adhere to all applicable minimum standards for the
11 facility.

12 (e) The Texas Juvenile Probation Commission may deny,
13 suspend, or revoke the registration of any facility required to
14 register under Subsection (d) if the facility fails to:

15 (1) adhere to all applicable minimum standards for the
16 facility; or

17 (2) timely correct any notice of noncompliance with
18 minimum standards.

19 SECTION 7. Sections 54.04(d) and (u), Family Code, are
20 amended to read as follows:

21 (d) If the court or jury makes the finding specified in
22 Subsection (c) allowing the court to make a disposition in the case:

23 (1) the court or jury may, in addition to any order
24 required or authorized under Section 54.041 or 54.042, place the
25 child on probation on such reasonable and lawful terms as the court
26 may determine:

27 (A) in the child's own home or in the custody of a

1 relative or other fit person; or

2 (B) subject to the finding under Subsection (c)
3 on the placement of the child outside the child's home, in:

4 (i) a suitable foster home; or

5 (ii) a suitable public or private
6 institution or agency, except the Texas Youth Commission;

7 (2) if the court or jury found at the conclusion of the
8 adjudication hearing that the child engaged in delinquent conduct
9 that violates a penal law of this state or the United States of the
10 grade of felony ~~[or, if the requirements of Subsection (c) or (t)~~
11 ~~are met, of the grade of misdemeanor,]~~ and if the petition was not
12 approved by the grand jury under Section 53.045, the court may
13 commit the child to the Texas Youth Commission without a
14 determinate sentence;

15 (3) if the court or jury found at the conclusion of the
16 adjudication hearing that the child engaged in delinquent conduct
17 that included a violation of a penal law listed in Section 53.045(a)
18 and if the petition was approved by the grand jury under Section
19 53.045, the court or jury may sentence the child to commitment in
20 the Texas Youth Commission with a possible transfer to the
21 ~~[institutional division or the pardons and paroles division of the]~~
22 Texas Department of Criminal Justice for a term of:

23 (A) not more than 40 years if the conduct
24 constitutes:

25 (i) a capital felony;

26 (ii) a felony of the first degree; or

27 (iii) an aggravated controlled substance

felony;

(B) not more than 20 years if the conduct constitutes a felony of the second degree; or

(C) not more than 10 years if the conduct constitutes a felony of the third degree;

(4) the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003; or

(5) if applicable, the court or jury may make a disposition under Subsection (m).

(u) For the purposes of disposition under Subsection (d)(2), delinquent conduct that violates a penal law of this state of the grade of felony [~~or misdemeanor~~] does not include conduct that violates a lawful order of a county, municipal, justice, or juvenile court under circumstances that would constitute contempt of that court.

SECTION 8. Chapter 54, Family Code, is amended by adding Section 54.0401 to read as follows:

Sec. 54.0401. COMMUNITY-BASED PROGRAMS. (a) This section applies only to a county that has a population of at least 335,000.

(b) A juvenile court of a county to which this section applies may require a child who is found to have engaged in delinquent conduct that violates a penal law of the grade of misdemeanor and for whom the requirements of Subsection (c) are met to participate in a community-based program administered by the county's juvenile board.

(c) A juvenile court of a county to which this section

1 applies may make a disposition under Subsection (b) for delinquent
2 conduct that violates a penal law of the grade of misdemeanor:

3 (1) if:

4 (A) the child has been adjudicated as having
5 engaged in delinquent conduct violating a penal law of the grade of
6 misdemeanor on at least two previous occasions;

7 (B) of the previous adjudications, the conduct
8 that was the basis for one of the adjudications occurred after the
9 date of another previous adjudication; and

10 (C) the conduct that is the basis of the current
11 adjudication occurred after the date of at least two previous
12 adjudications; or

13 (2) if:

14 (A) the child has been adjudicated as having
15 engaged in delinquent conduct violating a penal law of the grade of
16 felony on at least one previous occasion; and

17 (B) the conduct that is the basis of the current
18 adjudication occurred after the date of that previous adjudication.

19 (d) The Texas Juvenile Probation Commission shall establish
20 guidelines for the implementation of community-based programs
21 described by this section. The juvenile board of each county to
22 which this section applies shall implement a community-based
23 program that complies with those guidelines.

24 (e) The Texas Juvenile Probation Commission shall provide
25 grants to selected juvenile boards to assist with the
26 implementation of a system of community-based programs under this
27 section.

(f) Not later than January 1, 2009, the Texas Juvenile Probation Commission shall prepare and deliver to the governor, the lieutenant governor, and each member of the legislature a report describing the implementation and effectiveness of the community-based programs described by this section. The report must include information relating to the cost of requiring a child to participate in a community-based program. This subsection expires February 1, 2009.

SECTION 9. Section 54.05(f), Family Code, is amended to read as follows:

(f) Except as provided by Subsection (j), a disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony ~~[or, if the requirements of Subsection (k) are met, of the grade of misdemeanor,~~] may be modified so as to commit the child to the Texas Youth Commission if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) may be modified to commit the child to the Texas Youth Commission with a possible transfer to the ~~[institutional division or the pardons and paroles division of the]~~ Texas Department of Criminal Justice for a definite term prescribed by Section 54.04(d)(3) if the original petition was approved by the grand jury under Section 53.045 and if after a hearing to modify the disposition the court finds that the

1 child violated a reasonable and lawful order of the court.

2 SECTION 10. Chapter 54, Family Code, is amended by adding
3 Section 54.052 to read as follows:

4 Sec. 54.052. CREDIT FOR TIME SPENT IN DETENTION FACILITY
5 FOR CHILD WITH DETERMINATE SENTENCE. (a) This section applies only
6 to a child who is committed to the Texas Youth Commission under a
7 determinate sentence under Section 54.04(d)(3) or (m) or Section
8 54.05(f).

9 (b) The judge of the court in which a child is adjudicated
10 shall give the child credit on the child's sentence for the time
11 spent by the child, in connection with the conduct for which the
12 child was adjudicated, in a secure detention facility before the
13 child's transfer to a Texas Youth Commission facility.

14 (c) If a child appeals the child's adjudication and is
15 retained in a secure detention facility pending the appeal, the
16 judge of the court in which the child was adjudicated shall give the
17 child credit on the child's sentence for the time spent by the child
18 in a secure detention facility pending disposition of the child's
19 appeal. The court shall endorse on both the commitment and the
20 mandate from the appellate court all credit given the child under
21 this subsection.

22 (d) The Texas Youth Commission shall grant any credit under
23 this section in computing the child's eligibility for parole and
24 discharge.

25 SECTION 11. Section 58.106(a), Family Code, is amended to
26 read as follows:

27 (a) Except as otherwise provided by this section,

1 information contained in the juvenile justice information system is
2 confidential information for the use of the department and may not
3 be disseminated by the department except:

4 (1) with the permission of the juvenile offender, to
5 military personnel of this state or the United States;

6 (2) to a person or entity to which the department may
7 grant access to adult criminal history records as provided by
8 Section 411.083, Government Code;

9 (3) to a juvenile justice agency; ~~and~~

10 (4) to ~~[the Criminal Justice Policy Council]~~ the
11 Texas Youth Commission~~[r]~~ and the Texas Juvenile Probation
12 Commission for analytical purposes; and

13 (5) to the office of independent ombudsman of the
14 Texas Youth Commission.

15 SECTION 12. Section 261.201, Family Code, is amended by
16 adding Subsections (i) and (j) to read as follows:

17 (i) Notwithstanding Subsection (a), the Texas Youth
18 Commission shall release a report of alleged or suspected abuse or
19 neglect made under this chapter if:

20 (1) the report relates to a report of abuse or neglect
21 involving a child committed to the commission during the period
22 that the child is committed to the commission; and

23 (2) the commission is not prohibited by Chapter 552,
24 Government Code, or other law from disclosing the report.

25 (j) The Texas Youth Commission shall edit any report
26 disclosed under Subsection (i) to protect the identity of:

27 (1) a child who is the subject of the report of alleged

1 or suspected abuse or neglect;

2 (2) the person who made the report; and

3 (3) any other person whose life or safety may be
4 endangered by the disclosure.

5 SECTION 13. Section 41.102, Government Code, is amended by
6 adding Subsection (c) to read as follows:

7 (c) The attorney general may offer to assist a prosecuting
8 attorney in the prosecution of criminal offenses concerning the
9 Texas Youth Commission.

10 SECTION 14. Chapter 41, Government Code, is amended by
11 adding Subchapter E to read as follows:

12 SUBCHAPTER E. SPECIAL PROSECUTION UNIT

13 Sec. 41.301. DEFINITIONS. In this subchapter:

14 (1) "Board of directors" means the board of directors
15 of the unit.

16 (2) "Commission" means the Texas Youth Commission.

17 (3) "Department" means the Texas Department of
18 Criminal Justice.

19 (4) "Executive board" means the executive board
20 governing the board of directors of the unit.

21 (5) "Prosecuting attorney" means a district attorney,
22 a criminal district attorney, or a county attorney representing the
23 state in criminal matters before the district or inferior courts of
24 the county.

25 (6) "Unit" means the special prosecution unit.

26 Sec. 41.302. GENERAL FUNCTION OF SPECIAL PROSECUTION UNIT.

27 The special prosecution unit is an independent unit that cooperates

1 with and supports prosecuting attorneys in prosecuting offenses and
2 delinquent conduct described by Article 104.003(a), Code of
3 Criminal Procedure.

4 Sec. 41.303. BOARD OF DIRECTORS. (a) The unit is governed
5 by a board of directors composed of each prosecuting attorney who
6 represents the state in criminal matters before a court in a county
7 in which one or more facilities owned or operated by or under
8 contract with the department or the commission are located.

9 (b) A prosecuting attorney described by Subsection (a)
10 shall serve on the board of directors in addition to the other
11 duties of the prosecuting attorney assigned by law.

12 Sec. 41.304. EXECUTIVE BOARD. (a) The board of directors
13 is governed by an executive board composed of 11 members elected by
14 the membership of the board of directors on a majority vote from
15 among that membership, as follows:

16 (1) one member of the executive board who represents
17 the state in criminal matters before a court in a county in which
18 one or more facilities owned or operated by or under contract with
19 the commission are located shall be elected on a majority vote of
20 the members of the board of directors to serve a term expiring in an
21 even-numbered year;

22 (2) an additional four members of the executive board
23 shall be elected on a majority vote of the members of the board of
24 directors to serve terms expiring in even-numbered years;

25 (3) one member of the executive board who represents
26 the state in criminal matters before a court in a county in which
27 one or more facilities owned or operated by or under contract with

1 the commission are located shall be elected on a majority vote of
2 the members of the board of directors to serve a term expiring in an
3 odd-numbered year; and

4 (4) an additional five members of the executive board
5 shall be elected on a majority vote of the members of the board of
6 directors to serve terms expiring in odd-numbered years.

7 (b) If a vacancy on the executive board occurs, the board of
8 directors shall elect a person to serve the remainder of the
9 vacating member's term in the manner provided by Subsection (a). To
10 be eligible for election under this subsection, a person must meet
11 any qualifications required of the vacating member for service on
12 the executive board.

13 Sec. 41.305. OFFICERS. (a) The members of the board of
14 directors, on a majority vote, shall elect from among the
15 membership of the executive board a presiding officer and an
16 assistant presiding officer. The presiding officer serves as the
17 presiding officer of the board of directors and the executive
18 board, and the assistant presiding officer serves as the assistant
19 presiding officer of the board of directors and the executive
20 board.

21 (b) The presiding officer and the assistant presiding
22 officer serve terms of one year.

23 (c) The assistant presiding officer serves as presiding
24 officer of the board of directors and the executive board in the
25 presiding officer's absence or if a vacancy occurs in that office
26 until a new presiding officer is elected as provided by Subsection
27 (d).

1 (d) If a vacancy occurs in the office of presiding officer
2 or assistant presiding officer, the board of directors shall elect
3 a person to serve the remainder of the vacating officer's term in
4 the manner provided by Subsection (a).

5 Sec. 41.306. MEMBERSHIP ON BOARD OF DIRECTORS OR EXECUTIVE
6 BOARD NOT A CIVIL OFFICE OF EMOLUMENT. A position on the board of
7 directors or the executive board may not be construed to be a civil
8 office of emolument for any purpose, including those purposes
9 described in Section 40, Article XVI, Texas Constitution.

10 Sec. 41.307. REIMBURSEMENT FOR EXPENSES. A member of the
11 board of directors or executive board is not entitled to
12 compensation for service on the board of directors or executive
13 board, if applicable, but is entitled to be reimbursed for
14 necessary expenses incurred in carrying out the duties and
15 responsibilities of a member of the board of directors and the
16 executive board, if applicable, as provided by the General
17 Appropriations Act.

18 Sec. 41.308. CHIEF OF SPECIAL PROSECUTION UNIT; ADDITIONAL
19 EMPLOYEES. The board of directors, on a majority vote, shall employ
20 a person to serve as chief of the unit and additional persons to
21 accomplish the unit's purposes. The board of directors may
22 determine the compensation of the unit's employees.

23 Sec. 41.309. ELECTION OF COUNSELLOR. (a) The executive
24 board, on a majority vote, shall elect a counsellor.

25 (b) To be eligible to serve as a counsellor, a person must:
26 (1) be certified in criminal law by the Texas Board of
27 Legal Specialization;

1 (2) have at least five years of experience as a lawyer
2 assisting prosecuting attorneys in prosecuting offenses or
3 delinquent conduct committed on state property used for the custody
4 of persons charged with or convicted of offenses or used for the
5 custody of children charged with or adjudicated as having engaged
6 in delinquent conduct or conduct indicating a need for supervision;
7 or

8 (3) have served for at least five years as a
9 prosecuting attorney or as a judge of a district court, a court of
10 appeals, or the court of criminal appeals.

11 Sec. 41.310. DUTIES OF COUNSELLOR. (a) The counsellor
12 elected in accordance with Section 41.309:

13 (1) shall coordinate prosecution issues in and monitor
14 each case involving an offense or delinquent conduct described by
15 Article 104.003(a), Code of Criminal Procedure, that concerns the
16 commission;

17 (2) shall work with criminal justice analysts employed
18 by the Legislative Budget Board and other persons who monitor cases
19 involving offenses or delinquent conduct described by Article
20 104.003(a), Code of Criminal Procedure; and

21 (3) may conduct an investigation of any alleged
22 illegal or improper conduct by commission officers, employees, or
23 contractors that the counsellor reasonably believes:

24 (A) jeopardizes the health, safety, and welfare
25 of children in the custody of the commission; and

26 (B) could constitute an offense described by
27 Article 104.003(a), Code of Criminal Procedure.

1 (b) In addition to the duties prescribed by Subsection (a),
2 the counsellor shall on a quarterly basis provide the board of
3 directors and the standing committees of the senate and house of
4 representatives with primary jurisdiction over matters concerning
5 correctional facilities with a report concerning offenses or
6 delinquent conduct prosecuted by the unit on receiving a request
7 for assistance under Section 61.098, Human Resources Code, or a
8 request for assistance otherwise from a prosecuting attorney. A
9 report under this subsection is public information under Chapter
10 552, Government Code, and the board of directors shall request that
11 the commission publish the report on the commission's Internet
12 website. A report must be both aggregated and disaggregated by
13 individual facility and include information relating to:

14 (1) the number of requests for assistance received
15 under Section 61.098, Human Resources Code, and requests for
16 assistance otherwise received from prosecuting attorneys;

17 (2) the number of cases investigated and the number of
18 cases prosecuted;

19 (3) the types and outcomes of cases prosecuted, such
20 as whether the case concerned narcotics or an alleged incident of
21 sexual abuse; and

22 (4) the relationship of a victim to a perpetrator, if
23 applicable.

24 (c) The counsellor, in consultation with the board of
25 directors, shall notify the foreman of the appropriate grand jury,
26 in the manner provided by Article 20.09, Code of Criminal
27 Procedure, if:

1 (1) the counsellor receives credible evidence of
2 illegal or improper conduct by commission officers, employees, or
3 contractors that the counsellor reasonably believes jeopardizes
4 the health, safety, and welfare of children in the custody of the
5 commission;

6 (2) the counsellor reasonably believes the conduct:

7 (A) could constitute an offense described by
8 Article 104.003(a), Code of Criminal Procedure; and

9 (B) involves the alleged physical or sexual abuse
10 of a child in the custody of a commission facility or an
11 investigation related to the alleged abuse; and

12 (3) the counsellor has reason to believe that
13 information concerning the conduct has not previously been
14 presented to the appropriate grand jury.

15 SECTION 15. Chapter 325, Government Code, is amended by
16 adding Sections 325.0121 and 325.0122 to read as follows:

17 Sec. 325.0121. STUDY ON TRANSITION TOWARD REGIONALIZED
18 JUVENILE CORRECTIONS. (a) As part of its review of juvenile
19 corrections for the 81st Legislature, the commission shall study
20 the merits of moving the Texas Youth Commission toward a
21 regionalized structure of smaller facilities and more diversified
22 treatment and placement options, taking into consideration the
23 likely effects of this regionalized structure on:

24 (1) recidivism;

25 (2) juvenile and family access to services; and

26 (3) costs to this state and the counties of this state.

27 (b) In conducting the study, the commission shall determine

1 whether the existing Texas Youth Commission facilities meet their
2 intended purposes.

3 (c) The commission shall take into consideration the
4 findings and conclusions of the study in its report to the 81st
5 Legislature and shall include any recommendations it considers
6 appropriate resulting from its consideration of the study.

7 (d) The commission, in conducting the study, may seek the
8 assistance of nationally recognized experts in the field of
9 juvenile justice.

10 (e) This section expires September 1, 2009.

11 Sec. 325.0122. STUDY ON GOVERNANCE OF TEXAS YOUTH
12 COMMISSION. (a) The commission shall study the merits of an
13 executive commissioner governing the Texas Youth Commission as
14 compared to a citizen board.

15 (b) The commission shall make recommendations concerning
16 the governance of the Texas Youth Commission in its report to the
17 legislature under Section 325.012 as part of its review of the Texas
18 Youth Commission, which, as provided by Section 61.020, Human
19 Resources Code, is abolished September 1, 2009, unless continued in
20 existence as provided by this chapter.

21 (c) This section expires September 1, 2009.

22 SECTION 16. Section 411.1141(a), Government Code, is
23 amended to read as follows:

24 (a) The Texas Youth Commission is entitled to obtain from
25 the department criminal history record information maintained by
26 the department that relates to a person described by Section
27 61.0357(b), Human Resources Code ~~[who is]~~

1 ~~[(1) an applicant for a position with the Texas Youth~~
2 ~~Commission,~~

3 ~~[(2) a volunteer or an intern, or an applicant~~
4 ~~volunteer or intern, with the Texas Youth Commission,~~

5 ~~[(3) a business entity or person who contracts with~~
6 ~~the Texas Youth Commission to provide direct delivery services to~~
7 ~~youth,~~

8 ~~[(4) an employee of, or an applicant for employment~~
9 ~~with, a business entity or person who contracts with the Texas Youth~~
10 ~~Commission to provide direct delivery of services to youth, or~~

11 ~~[(5) a volunteer or an intern, or an applicant~~
12 ~~volunteer or intern, with a business entity or person who contracts~~
13 ~~with the Texas Youth Commission to provide direct delivery of~~
14 ~~services to youth].~~

15 SECTION 17. Chapter 493, Government Code, is amended by
16 adding Section 493.026 to read as follows:

17 Sec. 493.026. INSPECTOR GENERAL REPORT ON CRIMINAL
18 OFFENSES. (a) In this section, "special prosecution unit" means
19 the special prosecution unit established under Subchapter E,
20 Chapter 41.

21 (b) The inspector general of the department shall on a
22 quarterly basis prepare and deliver to the board of directors of the
23 special prosecution unit a report concerning any alleged criminal
24 offense concerning the department and described by Article
25 104.003(a), Code of Criminal Procedure, that occurred during the
26 preceding calendar quarter.

27 SECTION 18. Section 497.052(b), Government Code, is amended

1 to read as follows:

2 (b) The following individuals shall serve as ex officio
3 members of the authority:

4 (1) a member of the house of representatives
5 designated by the speaker of the house;

6 (2) a member of the senate designated by the
7 lieutenant governor;

8 (3) the executive director of the Texas Department of
9 Criminal Justice or the designee of the executive director;

10 (4) the executive director of the Texas Workforce
11 Commission or the designee of the executive director; and

12 (5) the executive commissioner [~~director~~] of the Texas
13 Youth Commission or the designee of the executive commissioner
14 [~~director~~].

15 SECTION 19. Section 508.156(a), Government Code, is amended
16 to read as follows:

17 (a) Before the release of a person who is transferred under
18 Section 61.081(f) or 61.084(g) [~~61.084(f) or (g)~~], Human Resources
19 Code, to the division for release on parole, a parole panel shall
20 review the person's records and may interview the person or any
21 other person the panel considers necessary to determine the
22 conditions of parole. The panel may impose any reasonable
23 condition of parole on the person that the panel may impose on an
24 adult inmate under this chapter.

25 SECTION 20. Subchapter A, Chapter 531, Government Code, is
26 amended by adding Section 531.016 to read as follows:

27 Sec. 531.016. EQUAL ACCESS TO FACILITIES, SERVICES, AND

1 TREATMENT. (a) The commission, the Texas Youth Commission, and the
2 Texas Juvenile Probation Commission shall periodically review,
3 document, and compare the accessibility and funding of facilities,
4 services, and treatment provided to females under 18 years of age to
5 the accessibility and funding of facilities, services, and
6 treatment provided to males in the same age group.

7 (b) The commission shall coordinate the review,
8 documentation, and comparison required by Subsection (a).

9 (c) The areas of review required by Subsection (a) must
10 include:

11 (1) the nature, extent, and effectiveness of services
12 offered for females under 18 years of age within the areas of teen
13 pregnancy, physical and sexual abuse, and alcohol and drug abuse,
14 services for runaway and homeless females, and services for females
15 involved in gangs or other delinquent activity; and

16 (2) the equity of services offered to persons under 18
17 years of age with respect to gender within the areas of physical and
18 sexual abuse, alcohol and drug abuse, and services offered to
19 runaway and homeless youth.

20 (d) Each health and human services agency or other state
21 agency that provides facilities, services, treatment, or funding
22 subject to the review required by Subsection (a) shall identify
23 existing differences within the agency in the allocation and
24 expenditures of money and services for males under 18 years of age
25 in comparison to females in the same age group. Each agency shall
26 submit a report to the commission describing any differences
27 identified.

1 (e) Each agency described by Subsection (d) shall:

2 (1) develop a plan to address any lack of services for
3 females under 18 years of age reported by the agency; and

4 (2) submit a report to the commission on the progress
5 made under the plan.

6 (f) The commission shall assemble the agency reports
7 submitted under Subsections (d) and (e) and prepare an executive
8 summary to be delivered to the members of the legislature not later
9 than July 1 of each even-numbered year.

10 (g) This section expires September 1, 2011.

11 SECTION 21. Section 811.001(9), Government Code, is amended
12 to read as follows:

13 (9) "Law enforcement officer" means a member of the
14 retirement system who:

15 (A) has been commissioned as a law enforcement
16 officer by the Department of Public Safety, the Texas Alcoholic
17 Beverage Commission, ~~[or]~~ the Parks and Wildlife Department, or the
18 office of inspector general at the Texas Youth Commission; and

19 (B) is recognized as a commissioned law
20 enforcement officer by the Commission on Law Enforcement Officer
21 Standards and Education.

22 SECTION 22. Section 814.104(b), Government Code, is amended
23 to read as follows:

24 (b) A member who is at least 55 years old and who has at
25 least 10 years of service credit as a commissioned peace officer
26 engaged in criminal law enforcement activities of the Department of
27 Public Safety, the Texas Alcoholic Beverage Commission, ~~[or]~~ the

1 Parks and Wildlife Department, or the office of inspector general
2 at the Texas Youth Commission, or as a custodial officer, is
3 eligible to retire and receive a service retirement annuity.

4 SECTION 23. Section 815.505, Government Code, is amended to
5 read as follows:

6 Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND
7 CUSTODIAL OFFICERS. Not later than the 12th day of the month
8 following the month in which a person begins or ceases employment as
9 a law enforcement officer or custodial officer, the Public Safety
10 Commission, the Texas Alcoholic Beverage Commission, the Parks and
11 Wildlife Commission, the office of inspector general at the Texas
12 Youth Commission, the Board of Pardons and Paroles, or the Texas
13 Board of Criminal Justice, as applicable, shall certify to the
14 retirement system, in the manner prescribed by the system, the name
15 of the employee and such other information as the system determines
16 is necessary for the crediting of service and financing of benefits
17 under this subtitle.

18 SECTION 24. Section 551.008(a), Health and Safety Code, is
19 amended to read as follows:

20 (a) The department may transfer the South Campus of the
21 Vernon State Hospital to the Texas Youth Commission contingent upon
22 the agreement of the governing board of the department and the
23 executive commissioner [~~governing board~~] of the Texas Youth
24 Commission.

25 SECTION 25. Section 42.041(b), Human Resources Code, is
26 amended to read as follows:

27 (b) This section does not apply to:

1 (1) a state-operated facility;

2 (2) an agency foster home or agency foster group home;

3 (3) a facility that is operated in connection with a
4 shopping center, business, religious organization, or
5 establishment where children are cared for during short periods
6 while parents or persons responsible for the children are attending
7 religious services, shopping, or engaging in other activities on or
8 near the premises, including but not limited to retreats or classes
9 for religious instruction;

10 (4) a school or class for religious instruction that
11 does not last longer than two weeks and is conducted by a religious
12 organization during the summer months;

13 (5) a youth camp licensed by the Department of State
14 Health Services [~~Texas Department of Health~~];

15 (6) a facility licensed, operated, certified, or
16 registered by another state agency;

17 (7) an educational facility accredited by the Texas
18 Education Agency or the Southern Association of Colleges and
19 Schools that operates primarily for educational purposes in grades
20 kindergarten and above, an after-school program operated directly
21 by an accredited educational facility, or an after-school program
22 operated by another entity under contract with the educational
23 facility, if the Texas Education Agency or Southern Association of
24 Colleges and Schools has approved the curriculum content of the
25 after-school program operated under the contract;

26 (8) an educational facility that operates solely for
27 educational purposes in grades kindergarten through at least grade

two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

(10) a family home, whether registered or listed;

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the following: kindergarten through at least grade three, elementary, or secondary grades;

(12) an emergency shelter facility providing shelter to minor mothers who are the sole support of their natural children under Section 32.201, Family Code, unless the facility would otherwise require a license as a child-care facility under this section;

(13) a juvenile detention facility certified under Section 51.12, Family Code, a juvenile correctional facility certified under Section 51.125, Family Code, ~~[or Section~~

1 ~~141.042(d),~~] a juvenile facility providing services solely for the
2 Texas Youth Commission, or any other correctional facility for
3 children operated or regulated by another state agency or by a
4 political subdivision of the state;

5 (14) an elementary-age (ages 5-13) recreation program
6 operated by a municipality provided the governing body of the
7 municipality annually adopts standards of care by ordinance after a
8 public hearing for such programs, that such standards are provided
9 to the parents of each program participant, and that the ordinances
10 shall include, at a minimum, staffing ratios, minimum staff
11 qualifications, minimum facility, health, and safety standards,
12 and mechanisms for monitoring and enforcing the adopted local
13 standards; and further provided that parents be informed that the
14 program is not licensed by the state and the program may not be
15 advertised as a child-care facility; or

16 (15) an annual youth camp held in a municipality with a
17 population of more than 1.5 million that operates for not more than
18 three months and that has been operated for at least 10 years by a
19 nonprofit organization that provides care for the homeless.

20 SECTION 26. Section 42.052(h), Human Resources Code, is
21 amended to read as follows:

22 (h) The certification requirements of this section do not
23 apply to a juvenile detention facility certified under Section
24 51.12, Family Code, or a juvenile correctional facility certified
25 under Section 51.125, Family Code [~~or Section 141.042(d)~~].

26 SECTION 27. Section 61.001, Human Resources Code, is
27 amended by amending Subdivisions (2) and (4) and adding Subdivision

(7) to read as follows:

(2) "Advisory board" [~~"Board"~~] means the advisory [~~governing~~] board of the commission.

(4) "Executive commissioner" [~~director~~] means the executive commissioner [~~director~~] of the commission.

(7) "Office of inspector general" means the office of inspector general established under Section 61.0451.

SECTION 28. Sections 61.012 and 61.0121, Human Resources Code, are amended to read as follows:

Sec. 61.012. EXECUTIVE COMMISSIONER [~~MEMBERS OF THE GOVERNING BOARD~~]. (a) The [~~governing board of the~~] Texas Youth Commission is governed by an executive commissioner [~~consists of seven members~~] appointed by the governor with the consent of the senate. The appointment of the executive commissioner [~~Appointments to the board~~] shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee [~~appointees~~].

(b) [~~Members of the board must be citizens who are recognized within their communities for their interest in youth.~~]

[~~(c)~~] The executive commissioner holds [~~board members hold~~] office for a term of not more than two years expiring February 1 of odd-numbered [~~staggered terms of six years, with the terms of two or three members expiring every two~~] years.

(c) The executive commissioner [~~(d) A member~~] is eligible for reappointment with the consent of the senate.

(d) The executive commissioner is a full-time state officer who is entitled to a salary and reimbursement for actual expenses

1 incurred while on commission business.

2 (e) This section expires September 1, 2009.

3 Sec. 61.0121. QUALIFICATIONS FOR EXECUTIVE COMMISSIONER,
4 ADVISORY BOARD MEMBERS, AND EMPLOYEES. (a) A person is not
5 eligible for appointment as executive commissioner or as a member
6 of [te] the advisory board if the person or the person's spouse:

7 (1) is employed by or participates in the management
8 of a business entity or other organization receiving funds from the
9 commission;

10 (2) owns or controls, directly or indirectly, more
11 than a 10 percent interest in a business entity or other
12 organization receiving funds from the commission; or

13 (3) uses or receives a substantial amount of tangible
14 goods, services, or funds from the commission, other than
15 compensation or reimbursement authorized by law [~~for board~~
16 ~~membership, attendance, or expenses~~].

17 (b) An officer, employee, or paid consultant of a Texas
18 trade association in the field of criminal or juvenile justice may
19 not be the executive commissioner, a member of the advisory board,
20 or an employee of the commission who is exempt from the state's
21 position classification plan or is compensated at or above the
22 amount prescribed by the General Appropriations Act for step 1,
23 salary group 17, of the position classification salary schedule.

24 (c) A person who is the spouse of an officer, manager, or
25 paid consultant of a Texas trade association in the field of
26 criminal justice or juvenile justice may not be the executive
27 commissioner, a member of the advisory board, or [~~and may not be~~] an

employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(e) A person may not be appointed as executive commissioner, serve as a member of the advisory board, or act as the general counsel to the executive commissioner, the advisory board, or the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(f) This section expires September 1, 2009.

SECTION 29. Subchapter B, Chapter 61, Human Resources Code, is amended by adding Section 61.0123 to read as follows:

Sec. 61.0123. REMOVAL OF EXECUTIVE COMMISSIONER FROM OFFICE. (a) It is a ground for removal from office as executive commissioner if the executive commissioner:

(1) does not have at the time of appointment the qualifications required by Section 61.0121(a) for appointment;

(2) does not maintain while serving as executive commissioner the qualifications required by Section 61.0121(a) for

1 appointment; or

2 (3) violates a prohibition established by Section
3 61.0121(b) or (c).

4 (b) The validity of an action of the executive commissioner
5 is not affected by the fact that it was taken when a ground for
6 removal existed.

7 (c) If the advisory board has knowledge that a potential
8 ground for removal exists under this section, the chairman of the
9 advisory board shall notify the executive commissioner, the
10 governor, and the attorney general of the potential ground for
11 removal.

12 (d) This section expires September 1, 2009.

13 SECTION 30. Section 61.013, Human Resources Code, is
14 amended to read as follows:

15 Sec. 61.013. ADVISORY BOARD [~~PRESIDING OFFICER, MEETINGS~~].

16 (a) An advisory board for the commission is established to:

17 (1) advise the executive commissioner on matters
18 concerning the commission; and

19 (2) assist the executive commissioner in the
20 performance of the executive commissioner's duties. [The governor
21 shall designate a member of the board as the chairman of the board
22 to serve in that capacity at the pleasure of the governor.]

23 (b) The advisory board is composed of nine members. Three
24 members shall be appointed by the governor, three members shall be
25 appointed by the lieutenant governor, and three members shall be
26 appointed by the speaker of the house of representatives. The
27 governor, lieutenant governor, and speaker of the house of

1 representatives shall coordinate to ensure that the membership of
2 the advisory board meets the requirements of Subsection (d). The
3 governor shall designate a member of the advisory board as the
4 chairman of the advisory board to serve in that capacity at the
5 pleasure of the governor. [~~The board shall meet at least four times~~
6 ~~each year.~~]

7 (c) The appointment of a member of the advisory board shall
8 be made without regard to the race, color, disability, sex,
9 religion, age, or national origin of the appointee [~~A meeting shall~~
10 ~~be held on the call of the chairman or on the request of four members~~
11 ~~at the time and place designated by the chairman~~].

12 (d) Members of the advisory board must be citizens who are
13 recognized within their communities for their interest in youth.
14 The board shall be composed of at least one physician, an
15 experienced member of a victims advocacy organization, a mental
16 health professional, and a current or former prosecutor or judge. A
17 majority of the members of the advisory board must be qualified, by
18 experience or education, in the development and administration of
19 programs for the rehabilitation and reestablishment in society of
20 children in the custody of agencies similar in mission and scope to
21 the commission. At least two of the members of the advisory board
22 must have primary experience in a field other than the field of
23 criminal or juvenile justice.

24 (e) The advisory board shall meet at least four times each
25 year. A meeting shall be held at the call of the chairman or on the
26 request of five members at a time and place designated by the
27 chairman.

1 (f) Advisory board members are entitled to receive a per
2 diem in the amount provided in the General Appropriations Act for
3 not more than 90 days in any fiscal year, plus reimbursement for
4 actual expenses incurred while on advisory board business.

5 (g) A member of the advisory board serves at the pleasure of
6 the person who appointed the member.

7 (h) This section expires September 1, 2009.

8 SECTION 31. Sections 61.019 and 61.0191, Human Resources
9 Code, are amended to read as follows:

10 Sec. 61.019. DELEGATION OF POWERS AND DUTIES. (a) Any
11 power, duty, or function of the commission that is not assigned by
12 statute to the chief inspector general of the office of inspector
13 general [~~or of the board~~] may be exercised and performed by the
14 executive commissioner.

15 (b) The executive commissioner may delegate to [~~director~~
16 ~~or~~] any [~~member or~~] employee designated or assigned by the [~~board or~~
17 ~~by the~~] executive commissioner a power, duty, or function of the
18 executive commissioner or the commission that is not already
19 assigned by statute to the chief inspector general of the office of
20 inspector general [~~director~~].

21 (c) This section expires September 1, 2009.

22 Sec. 61.0191. AUDIT; AUTHORITY OF STATE AUDITOR. (a) The
23 [~~financial transactions of the~~] commission is [~~are~~] subject to
24 audit by the state auditor in accordance with Chapter 321,
25 Government Code.

26 (b) The state auditor, on request of the office of inspector
27 general, may provide information or other assistance to the office

1 of inspector general that the state auditor determines is
 2 appropriate. The office of inspector general may coordinate with
 3 the state auditor to review or schedule a plan for an investigation
 4 under Section 61.0451 or share other information.

5 (c) The state auditor may access all information maintained
 6 by the office of inspector general, such as vouchers, electronic
 7 data, and internal records, including information that is otherwise
 8 confidential under law. Information obtained by the state auditor
 9 under this subsection is confidential and is not subject to
 10 disclosure under Chapter 552, Government Code.

11 (d) Any provision of this chapter relating to the operations
 12 of the office of inspector general does not:

13 (1) supersede the authority of the state auditor to
 14 conduct an audit under Chapter 321, Government Code; or

15 (2) prohibit the state auditor from:

16 (A) conducting an audit, investigation, or other
 17 review; or

18 (B) having full and complete access to all
 19 records and other information concerning the commission, including
 20 any witness statement or electronic data, that the state auditor
 21 considers necessary for the audit, investigation, or review.

22 SECTION 32. Section 61.022, Human Resources Code, is
 23 amended to read as follows:

24 Sec. 61.022. ACCESSIBILITY TO PROGRAMS AND FACILITIES. The
 25 commission shall comply with federal and state laws related to
 26 program and facility accessibility. The executive commissioner
 27 [~~director~~] shall also prepare and maintain a written plan that

describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

SECTION 33. Subchapter B, Chapter 61, Human Resources Code, is amended by adding Sections 61.023 and 61.024 to read as follows:

Sec. 61.023. ACCREDITATION BY AMERICAN CORRECTIONAL ASSOCIATION. Not later than September 1, 2007, the commission shall adopt a plan for and begin the process of receiving accreditation by the American Correctional Association for each correctional facility operated by or under contract with the commission.

Sec. 61.024. GOVERNANCE OF COMMISSION. (a) Notwithstanding any other provision of this chapter, effective September 1, 2009, the commission is governed by a board that consists of seven members appointed by the governor with the advice and consent of the senate. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Members of the board must be citizens who are recognized within their communities for their interest in youth. The board shall be composed of at least one physician, an experienced member of a victims advocacy organization, a mental health professional, and a current or former prosecutor or judge. A majority of the members of the board must be qualified, by experience or education, in the development and administration of programs for the rehabilitation and reestablishment in society of children in the custody of agencies similar in mission and scope to the commission. At least two of the members of the board must have primary

1 experience in a field other than the field of criminal or juvenile
2 justice.

3 (c) The board shall meet at least four times each year. A
4 meeting shall be held at the call of the chairman or on the request
5 of five members at a time and place designated by the chairman.
6 Board members are entitled to receive a per diem in the amount
7 provided in the General Appropriations Act for not more than 90 days
8 in any fiscal year, plus reimbursement for actual expenses incurred
9 while on board business.

10 (d) Effective September 1, 2009, the commission shall
11 employ an executive director, selected by the board, to serve at the
12 will of the board. The executive director shall devote full time to
13 the work of the commission. The executive director is entitled to
14 actual expenses while on commission business.

15 (e) Effective September 1, 2009:

16 (1) a reference in law to the executive commissioner
17 is a reference to the board in matters concerning the governance of
18 the commission, policymaking functions of the commission, or
19 rulemaking functions of the commission; and

20 (2) a reference in law to the executive commissioner
21 is a reference to the executive director in matters concerning the
22 administrative functions of the commission.

23 SECTION 34. Section 61.0315, Human Resources Code, is
24 amended to read as follows:

25 Sec. 61.0315. [~~REVIEW OF~~] TREATMENT PROGRAMS. (a) The
26 commission shall annually review the effectiveness of the
27 commission's programs for the rehabilitation and reestablishment

1 in society of children committed to the commission, including
2 programs for sex offenders, capital offenders, children who are
3 chemically dependent, ~~and~~ emotionally disturbed children, and
4 females.

5 (b) On or before December 31 of each year, the commission
6 shall make a report on the effectiveness of the programs to the
7 Legislative Budget Board.

8 (c) The commission shall offer or make available programs
9 described by Subsection (a) in an adequate manner so that a child in
10 the custody of the commission receives appropriate rehabilitation
11 services recommended for the child by the court committing the
12 child to the commission.

13 (d) If the commission is unable to offer or make available
14 programs described by Subsection (a) in the manner provided by
15 Subsection (c), the commission shall, not later than January 10 of
16 each odd-numbered year, provide the standing committees of the
17 senate and house of representatives with primary jurisdiction over
18 matters concerning correctional facilities with a report
19 explaining:

20 (1) which programs are not offered or are unavailable;
21 and

22 (2) the reason the programs are not offered or are
23 unavailable.

24 (e) The commission shall periodically review, document, and
25 compare the accessibility and funding of treatment programs
26 provided to female children committed to the commission to the
27 accessibility and funding of treatment provided to male children

1 committed to the commission.

2 SECTION 35. Subchapter C, Chapter 61, Human Resources Code,
3 is amended by adding Sections 61.0331, 61.0332, and 61.0345 to read
4 as follows:

5 Sec. 61.0331. INTERNAL AUDIT; REPORT. (a) The commission
6 shall regularly conduct internal audits of the commission,
7 including audits of:

8 (1) correctional facilities operated by and under
9 contract with the commission; and

10 (2) medical services provided to children in the
11 custody of the commission.

12 (b) The commission shall on a quarterly basis report the
13 results of the audits to:

14 (1) the committees of the senate and house of
15 representatives with primary jurisdiction over matters concerning
16 correctional facilities; and

17 (2) the state auditor.

18 Sec. 61.0332. COMPLIANCE REPORTS. (a) The commission
19 shall provide the joint select committee on the operation and
20 management of the Texas Youth Commission with reports concerning
21 the progress of the commission in complying with the requirements
22 of S.B. No. 103, Acts of the 80th Legislature, Regular Session,
23 2007. The commission shall prepare and deliver the first report to
24 the joint select committee on December 1, 2007, the second report to
25 the joint select committee on June 1, 2008, and the final report to
26 the joint select committee on December 1, 2008.

27 (b) This section expires January 1, 2009.

1 Sec. 61.0345. MISSION STATEMENT. The commission shall
2 develop and adopt a statement regarding the role and mission of the
3 commission.

4 SECTION 36. Section 61.034, Human Resources Code, is
5 amended to read as follows:

6 Sec. 61.034. POLICIES AND RULES. (a) The executive
7 commissioner [~~The commission~~] is responsible for the adoption of
8 all policies and shall make rules appropriate to the proper
9 accomplishment of the commission's [~~its~~] functions.

10 (b) The executive commissioner [~~commission~~] shall adopt
11 rules for the government of the schools, facilities, and programs
12 under the commission's [~~its~~] authority and shall see that the
13 schools, facilities, and programs are conducted according to law
14 and to the executive commissioner's [~~commission's~~] rules. The
15 purpose of the rules and of all education, work, training,
16 discipline, recreation, and other activities in the schools,
17 facilities, and programs is to restore and increase the
18 self-respect and self-reliance of the youth under the authority of
19 the commission and to qualify them for good citizenship and
20 honorable employment.

21 SECTION 37. Section 61.035, Human Resources Code, is
22 amended by amending Subsection (b) and adding Subsection (c) to
23 read as follows:

24 (b) Except as otherwise provided by this chapter, an
25 employee of the commission is employed on an at-will basis [~~The~~
26 ~~commission may remove any employee for cause, and a decision by the~~
27 ~~commission is final~~].

1 (c) The commission shall establish procedures and practices
2 governing:

3 (1) employment-related grievances submitted by
4 commission employees; and

5 (2) disciplinary actions within the commission,
6 including a procedure allowing a commission employee to elect to
7 participate in an independent dismissal mediation if the employee
8 is recommended for dismissal.

9 SECTION 38. Sections 61.0351, 61.0352, and 61.0354, Human
10 Resources Code, are amended to read as follows:

11 Sec. 61.0351. PROFESSIONAL INFORMATION FOR ADVISORY BOARD
12 MEMBERS AND EMPLOYEES. The executive commissioner [~~director or the~~
13 ~~executive director's designee~~] shall provide to members of the
14 advisory board and to commission employees, as often as is
15 necessary, information regarding their qualification for office or
16 employment under this chapter and their responsibilities under
17 applicable laws relating to standards of conduct for state officers
18 or employees.

19 Sec. 61.0352. DIVISION OF RESPONSIBILITY. The executive
20 commissioner [~~board~~] shall develop and implement policies that
21 clearly separate the policymaking responsibilities of the
22 executive commissioner [~~board~~] and the management responsibilities
23 of the [~~executive director and the~~] staff of the commission.

24 Sec. 61.0354. JOB PERFORMANCE EVALUATIONS. The executive
25 commissioner [~~director or the executive director's designee~~] shall
26 develop a system of annual performance evaluations that are based
27 on documented employee performance. All merit pay for commission

1 employees must be based on the system established under this
2 section.

3 SECTION 39. Section 61.0355(a), Human Resources Code, is
4 amended to read as follows:

5 (a) The executive commissioner [~~director or the executive~~
6 ~~director's designee~~] shall prepare and maintain a written policy
7 statement to assure implementation of a program of equal employment
8 opportunity under which all personnel transactions are made without
9 regard to race, color, disability, sex, religion, age, or national
10 origin. The policy statement shall include:

11 (1) personnel policies, including policies relating
12 to recruitment, evaluation, selection, appointment, training, and
13 promotion of personnel that are in compliance with requirements of
14 Chapter 21, Labor Code;

15 (2) a comprehensive analysis of the commission's work
16 force that meets federal or state laws, rules, and regulations and
17 instructions promulgated directly from those laws, rules, and
18 regulations;

19 (3) procedures by which a determination can be made
20 about the extent of underuse in the commission's work force of all
21 persons of whom federal or state laws, rules, and regulations and
22 instructions promulgated directly from those laws, rules, and
23 regulations encourage a more equitable balance; and

24 (4) reasonable methods to appropriately address those
25 areas of underuse.

26 SECTION 40. Subchapter C, Chapter 61, Human Resources Code,
27 is amended by adding Sections 61.0356, 61.0357, and 61.0386 to read

as follows:

Sec. 61.0356. JUVENILE CORRECTIONAL OFFICERS; STAFFING.

(a) In this section, "juvenile correctional officer" means an employee whose primary duty includes the custodial supervision of children in the custody of the commission.

(b) The commission shall provide each juvenile correctional officer employed by the commission with at least 300 hours of training, which must include on-the-job training, before the officer independently commences the officer's duties at the facility. The training must provide the officer with information and instruction related to the officer's duties, including information and instruction concerning:

(1) the juvenile justice system of this state, including the juvenile correctional facility system;

(2) security procedures;

(3) the supervision of children committed to the commission;

(4) signs of suicide risks and suicide precautions;

(5) signs and symptoms of the abuse, assault, neglect, and exploitation of a child, including sexual abuse and sexual assault, and the manner in which to report the abuse, assault, neglect, or exploitation of a child;

(6) the neurological, physical, and psychological development of adolescents;

(7) commission rules and regulations, including rules, regulations, and tactics concerning the use of force;

(8) appropriate restraint techniques;

1 (9) the Prison Rape Elimination Act of 2003 (42 U.S.C.
2 Section 15601, et seq.);

3 (10) the rights and responsibilities of children in
4 the custody of the commission;

5 (11) interpersonal relationship skills;

6 (12) the social and cultural lifestyles of children in
7 the custody of the commission;

8 (13) first aid and cardiopulmonary resuscitation;

9 (14) counseling techniques;

10 (15) conflict resolution and dispute mediation,
11 including de-escalation techniques;

12 (16) behavior management;

13 (17) mental health issues; and

14 (18) employee rights, employment discrimination, and
15 sexual harassment.

16 (c) The commission may employ part-time juvenile
17 correctional officers. A part-time juvenile correctional officer
18 is subject to the training requirements of this section.

19 (d) In each correctional facility operated by the
20 commission that has a dormitory, including an open-bay dormitory,
21 the commission must maintain a ratio of not less than one juvenile
22 correctional officer performing direct supervisory duties for
23 every 12 persons committed to the facility.

24 (e) The commission shall consider the age of a juvenile
25 correctional officer or other commission employee who performs
26 direct supervisory duties when determining the placement of the
27 officer or employee in a commission facility so that, to the extent

1 practicable, an officer or employee is not supervising a child who
2 is not more than three years younger than the officer or employee or
3 is otherwise a similar age to the officer or employee.

4 (f) The commission shall rotate the assignment of each
5 juvenile correctional officer at an interval determined by the
6 commission so that a juvenile correctional officer is not assigned
7 to the same station for an extended period of time.

8 (g) The commission shall ensure that at least one juvenile
9 correctional officer is assigned to supervise in or near a
10 classroom or other location in which children receive education
11 services or training at the time the children are receiving the
12 education services or training.

13 (h) The commission shall adopt rules necessary to
14 administer this section.

15 Sec. 61.0357. REQUIRED BACKGROUND AND CRIMINAL HISTORY
16 CHECKS. (a) In this section:

17 (1) "Department" means the Department of Public
18 Safety.

19 (2) "National criminal history record information"
20 means criminal history record information obtained from the
21 department under Subchapter F, Chapter 411, Government Code, and
22 from the Federal Bureau of Investigation under Section 411.087,
23 Government Code.

24 (b) The executive commissioner shall review the national
25 criminal history record information, state criminal history record
26 information maintained by the department, and previous and current
27 employment references of each person who:

1 (1) is an employee, contractor, volunteer, ombudsman,
2 or advocate working for the commission or working in a commission
3 facility or a facility under contract with the commission;

4 (2) provides direct delivery of services to children
5 in the custody of the commission; or

6 (3) has access to records in commission facilities or
7 offices.

8 (c) To enable the executive commissioner to conduct the
9 review, the commission shall adopt rules requiring a person
10 described by Subsection (b) to electronically provide the
11 department with a complete set of the person's fingerprints in a
12 form and of a quality acceptable to the department and the Federal
13 Bureau of Investigation.

14 (d) For each person described by Subsection (b), the
15 executive commissioner shall review on an annual basis the person's
16 national criminal history record information.

17 (e) The commission shall ensure that the system used to
18 check state criminal history record information maintained by the
19 department is capable of providing real time arrest information.

20 (f) The commission by rule may require a person described by
21 Subsection (b) to pay a fee related to the first national criminal
22 history record information review conducted under this section.
23 The amount of the fee may not exceed the administrative costs
24 incurred by the commission in conducting the initial review,
25 including the costs of obtaining the person's fingerprints.

26 (g) The commission shall adopt rules necessary to
27 administer this section.

1 Sec. 61.0386. ADVOCACY AND SUPPORT GROUPS. (a) The
2 commission shall allow advocacy and support groups whose primary
3 functions are to benefit children, inmates, girls and women, the
4 mentally ill, and victims of sexual assault to provide on-site
5 information, support, and other services for children confined in
6 commission facilities.

7 (b) The commission shall adopt security and privacy
8 procedures for advocacy and support groups that provide on-site
9 information, support, and other services under this section. The
10 security and privacy procedures may not be designed to deny an
11 advocacy or support group access to children confined in commission
12 facilities.

13 (c) The commission shall adopt standards consistent with
14 standards adopted by the Texas Department of Criminal Justice
15 regarding the confidential correspondence of children confined in
16 commission facilities with external entities, including advocacy
17 and support groups.

18 SECTION 41. Section 61.0423, Human Resources Code, is
19 amended to read as follows:

20 Sec. 61.0423. PUBLIC HEARINGS. (a) The executive
21 commissioner [board] shall develop and implement policies that
22 provide the public with a reasonable opportunity to appear before
23 the executive commissioner or the executive commissioner's
24 designee [board] and to speak on any issue under the jurisdiction of
25 the commission.

26 (b) The executive commissioner shall ensure that the
27 location of public hearings held in accordance with this section is

1 rotated between municipalities in which a commission facility is
2 located or that are in proximity to a commission facility.

3 SECTION 42. Subchapter C, Chapter 61, Human Resources Code,
4 is amended by adding Sections 61.0451, 61.0452, 61.0461, 61.061,
5 61.062, and 61.0651 to read as follows:

6 Sec. 61.0451. OFFICE OF INSPECTOR GENERAL. (a) The office
7 of inspector general is established at the commission for the
8 purpose of investigating:

9 (1) crimes committed by commission employees,
10 including parole officers employed by or under a contract with the
11 commission; and

12 (2) crimes committed at a facility operated by the
13 commission or at a residential facility operated by another entity
14 under a contract with the commission.

15 (b) The office of inspector general shall prepare and
16 deliver a report concerning the results of any investigation
17 conducted under this section to:

- 18 (1) the executive commissioner;
19 (2) the advisory board;
20 (3) the governor;
21 (4) the lieutenant governor;
22 (5) the speaker of the house of representatives;
23 (6) the standing committees of the senate and house of
24 representatives with primary jurisdiction over matters concerning
25 correctional facilities;
26 (7) the special prosecution unit;
27 (8) the state auditor; and

1 (9) any other appropriate state agency responsible for
2 licensing or certifying commission employees or facilities.

3 (c) The report prepared under Subsection (b) must include a
4 summary of the actions performed by the office of inspector general
5 in conducting the investigation, a statement of whether the
6 investigation resulted in a finding that a criminal offense
7 occurred, and a description of the finding. The report is public
8 information under Chapter 552, Government Code, only to the extent
9 authorized under that chapter and other law.

10 (d) The office of inspector general may employ and
11 commission inspectors general as peace officers for the purpose of
12 carrying out the duties described by this section. An inspector
13 general shall have all of the powers and duties given to peace
14 officers under Article 2.13, Code of Criminal Procedure.

15 (e) Peace officers employed and commissioned under
16 Subsection (d) must:

17 (1) be certified by the Commission on Law Enforcement
18 Officer Standards and Education under Chapter 1701, Occupations
19 Code; and

20 (2) complete advanced courses relating to the duties
21 of peace officers employed and commissioned under Subsection (d) as
22 part of any continuing education requirements for the peace
23 officers.

24 (f) The executive commissioner shall select a commissioned
25 peace officer as chief inspector general. The chief inspector
26 general is subject to the requirements of this section and may only
27 be discharged for cause.

1 (g) The chief inspector general shall on a quarterly basis
2 prepare and deliver a report concerning the operations of the
3 office of inspector general to:

- 4 (1) the executive commissioner;
5 (2) the advisory board;
6 (3) the governor;
7 (4) the lieutenant governor;
8 (5) the speaker of the house of representatives;
9 (6) the standing committees of the senate and house of
10 representatives with primary jurisdiction over correctional
11 facilities;
12 (7) the state auditor; and
13 (8) the comptroller.

14 (h) A report prepared under Subsection (g) is public
15 information under Chapter 552, Government Code, to the extent
16 authorized under that chapter and other law, and the commission
17 shall publish the report on the commission's Internet website. A
18 report must be both aggregated and disaggregated by individual
19 facility and include information relating to:

- 20 (1) the types of investigations conducted by the
21 office of inspector general, such as whether an investigation
22 concerned narcotics or an alleged incident of sexual abuse;
23 (2) the relationship of a victim to a perpetrator, if
24 applicable; and
25 (3) the number of investigations conducted concerning
26 suicides, deaths, and hospitalizations of children in the custody
27 of the commission.

1 (i) The office of inspector general shall immediately
 2 report to the executive commissioner, the advisory board, the
 3 governor's general counsel, and the state auditor any particularly
 4 serious or flagrant problem concerning the administration of a
 5 commission program or operation or any interference by the
 6 executive commissioner or an employee of the commission with an
 7 investigation conducted by the office.

8 Sec. 61.0452. TOLL-FREE NUMBER. (a) The commission shall
 9 establish a permanent, toll-free number for the purpose of
 10 receiving any information concerning the abuse, neglect, or
 11 exploitation of children in the custody of the commission.

12 (b) The office of inspector general shall ensure that:

13 (1) the toll-free number is prominently displayed in
 14 each commission facility; and

15 (2) children in the custody of the commission and
 16 commission employees have confidential access to telephones for the
 17 purpose of calling the toll-free number.

18 Sec. 61.0461. EMPLOYMENT OR DESIGNATION OF CHAPLAIN AT
 19 CERTAIN COMMISSION FACILITIES. The commission shall ensure that a
 20 chaplain is employed or formally designated for each commission
 21 correctional facility that is an institution.

22 Sec. 61.061. PLACEMENT IN COMMISSION FACILITIES. (a) The
 23 commission may not assign a child younger than 15 years of age to
 24 the same correctional facility dormitory as a person who is at least
 25 17 years of age unless the commission determines that the placement
 26 is necessary to ensure the safety of children in the custody of the
 27 commission. This subsection does not apply to a dormitory that is

used exclusively for short-term assessment and orientation purposes.

(b) The commission by rule shall adopt scheduling, housing, and placement procedures for the purpose of protecting vulnerable children in the custody of the commission. The procedures must address the age, physical condition, and treatment needs of a child as well as any other relevant factor.

(c) The commission shall consider the proximity of the residence of a child's family in determining the appropriate commission facility in which to place a child.

Sec. 61.062. ESTABLISHMENT OF MINIMUM LENGTH OF STAY. (a) The commission shall establish a minimum length of stay for each child committed to the commission without a determinate sentence.

(b) In establishing a minimum length of stay for a child, the commission shall consider:

(1) the nature of and seriousness of the conduct engaged in by the child; and

(2) the danger the child poses to the community.

Sec. 61.0651. INFORMATION PROVIDED BY COMMITTING COURT. In addition to the information provided under Section 61.065, a court that commits a child to the commission shall provide the commission with a copy of the following documents:

(1) the petition and the adjudication and disposition orders for the child, including the child's thumbprint;

(2) if the commitment is a result of revocation of probation, a copy of the conditions of probation and the revocation order;

- 1 (3) the social history report for the child;
- 2 (4) any psychological or psychiatric reports
3 concerning the child;
- 4 (5) the contact information sheet for the child's
5 parents or guardian;
- 6 (6) any law enforcement incident reports concerning
7 the offense for which the child is committed;
- 8 (7) any sex offender registration information
9 concerning the child;
- 10 (8) any juvenile probation department progress
11 reports concerning the child;
- 12 (9) any assessment documents concerning the child;
- 13 (10) the computerized referral and case history for
14 the child, including case disposition;
- 15 (11) the child's birth certificate;
- 16 (12) the child's social security number or social
17 security card, if available;
- 18 (13) the name, address, and telephone number of the
19 court administrator in the committing county;
- 20 (14) Title IV-E eligibility screening information for
21 the child, if available;
- 22 (15) the address in the committing county for
23 forwarding funds collected to which the committing county is
24 entitled;
- 25 (16) any of the child's school or immunization records
26 that the committing county possesses;
- 27 (17) any victim information concerning the case for

which the child is committed; and

(18) any of the child's pertinent medical records that the committing court possesses.

SECTION 43. Section 61.044, Human Resources Code, is amended to read as follows:

Sec. 61.044. BIENNIAL BUDGET. ~~[DUTIES OF EXECUTIVE DIRECTOR. (a) The executive director shall perform the duties assigned by the commission.~~

~~[(b)]~~ The executive commissioner ~~[director]~~ shall prepare ~~[and submit to the commission for its approval]~~ a biennial budget of all funds necessary to be appropriated by the legislature to the commission to carry out the purposes of this chapter. The budget shall be submitted and filed by the executive commissioner ~~[commission]~~ in the form and manner and within the time prescribed by law.

SECTION 44. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.055 to read as follows:

Sec. 61.055. ZERO-TOLERANCE POLICY. (a) The commission shall adopt a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact, of children in the custody of the commission.

(b) The commission shall establish standards for reporting and collecting data on the sexual abuse of children in the custody of the commission.

(c) The commission shall establish a procedure for children in the custody of the commission and commission employees to report

1 incidents of sexual abuse involving a child in the custody of the
2 commission. The procedure must designate a person employed at the
3 commission facility in which the abuse is alleged to have occurred
4 as well as a person who is employed at the commission's headquarters
5 to whom a person may report an incident of sexual abuse.

6 (d) The commission shall prominently display the following
7 notice in the office of the chief administrator of each commission
8 facility, the employees' break room of each commission facility,
9 the cafeteria of each commission facility, and at least six
10 additional locations in each commission facility:

11 THE TEXAS LEGISLATURE HAS ADOPTED A ZERO-TOLERANCE POLICY
12 REGARDING THE SEXUAL ABUSE, INCLUDING CONSENSUAL SEXUAL CONTACT, OF
13 A CHILD IN THE CUSTODY OF THE COMMISSION. ANY SUCH VIOLATION MUST
14 BE REPORTED TO _____.

15 SECTION 45. Sections 61.071 and 61.072, Human Resources
16 Code, are amended to read as follows:

17 Sec. 61.071. INITIAL EXAMINATION. (a) The commission
18 shall examine and make a study of each child committed to it as soon
19 as possible after commitment. The study shall be made according to
20 rules established by the commission and shall include:

21 (1) long-term planning for the child; and
22 (2) consideration of the child's medical, substance
23 abuse, and treatment history, including the child's psychiatric
24 history and substance abuse history [a determination of whether the
25 child will need long-term residential care].

26 (b) For a child for whom a minimum length of stay is
27 established under Section 61.062 of one year or longer, the initial

1 examination must include a comprehensive psychiatric evaluation.

2 (c) The commission shall administer comprehensive
3 psychological assessments to a child as part of the child's initial
4 examination, including assessments designed to identify whether a
5 child is in need of a psychiatric evaluation. If the results of a
6 child's psychological assessments indicate that the child is in
7 need of a psychiatric evaluation, the commission shall as soon as
8 practicable conduct a psychiatric evaluation of the child.

9 Sec. 61.072. REEXAMINATION. The commission shall
10 periodically reexamine each child under its control, except those
11 on release under supervision or in foster homes, for the purpose of
12 determining whether a rehabilitation plan made by the commission
13 concerning the child should be modified or continued. The
14 examination must include a study of all current circumstances of a
15 child's personal and family situation and an evaluation of the
16 progress made by the child since the child's last examination. The
17 examination of a child may be made as frequently as the commission
18 considers necessary [~~desirable~~], but shall be made at intervals not
19 exceeding six months [~~one year~~].

20 SECTION 46. Subchapter E, Chapter 61, Human Resources Code,
21 is amended by adding Section 61.0711 to read as follows:

22 Sec. 61.0711. HEALTH CARE DELIVERY SYSTEM. (a) In
23 providing medical care, behavioral health care, or rehabilitation
24 services, the commission shall integrate the provision of those
25 services in an integrated comprehensive delivery system.

26 (b) The delivery system may be used to deliver any medical,
27 behavioral health, or rehabilitation services provided to a child

in the custody of the commission, including:

(1) health care;

(2) dental care;

(3) behavioral health care;

(4) substance abuse treatment;

(5) nutrition;

(6) programming;

(7) case management; and

(8) general rehabilitation services, including educational, spiritual, daily living, recreational, and security services.

SECTION 47. Section 61.0731, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) The commission may disclose to a peace officer or law enforcement agency images of children recorded by an electronic recording device and incident reporting and investigation documents containing the names of children if the information is relevant to the investigation of a criminal offense alleged to have occurred in a facility operated by or under contract with the commission.

SECTION 48. Subchapter E, Chapter 61, Human Resources Code, is amended by adding Sections 61.0763 and 61.0764 to read as follows:

Sec. 61.0763. RIGHTS OF PARENTS. (a) The commission, in consultation with advocacy and support groups such as those described in Section 61.0386(a), shall develop a parent's bill of rights for distribution to the parent or guardian of a child who is

1 under 18 years of age and committed to the commission. The parent's
2 bill of rights must include:

3 (1) a description of the commission's grievance
4 policies and procedures, including contact information for the
5 office of inspector general and the office of the independent
6 ombudsman established under Chapter 64;

7 (2) a list of possible incidents that require parental
8 notification;

9 (3) policies concerning visits and telephone
10 conversations with a child committed to the commission;

11 (4) a description of commission caseworker
12 responsibilities;

13 (5) a statement that the commission caseworker
14 assigned to a child may assist the child's parent or guardian in
15 obtaining information and services from the commission and other
16 resources concerning:

17 (A) counseling, including substance abuse and
18 mental health counseling;

19 (B) assistance programs, including financial and
20 travel assistance programs for visiting a child committed to the
21 commission;

22 (C) workforce preparedness programs;

23 (D) parenting programs; and

24 (E) commission seminars; and

25 (6) information concerning the indeterminate
26 sentencing structure at the commission, an explanation of reasons
27 that a child's commitment at the commission could be extended, and

1 an explanation of the review process under Sections 61.0815 and
2 61.0816 for a child committed to the commission without a
3 determinate sentence.

4 (b) Not later than 48 hours after the time a child is
5 admitted to a commission facility, the commission shall mail to the
6 child's parent or guardian at the last known address of the parent
7 or guardian:

8 (1) the parent's bill of rights; and

9 (2) the contact information of the commission
10 caseworker assigned to the child.

11 (c) The commission shall on a quarterly basis provide to the
12 parent, guardian, or designated advocate of a child who is in the
13 custody of the commission a report concerning the progress of the
14 child at the commission, including:

15 (1) the academic and behavioral progress of the child;

16 and

17 (2) the results of any reexamination of the child
18 conducted under Section 61.072.

19 (d) The commission shall ensure that written information
20 provided to a parent or guardian regarding the rights of a child in
21 the custody of the commission or the rights of a child's parent or
22 guardian, including the parent's bill of rights, is clear and easy
23 to understand.

24 Sec. 61.0764. COMMISSION CASEWORKERS. (a) The commission
25 shall assign a caseworker to a child committed to the commission. A
26 commission caseworker shall:

27 (1) explore family issues and needs with the parent or

guardian of a child committed to the commission;

(2) as needed, provide the parent or guardian of a child committed to the commission with information concerning programs and services provided by the commission or another resource; and

(3) perform other duties required by the commission.

(b) A commission caseworker shall:

(1) at least once a month, attempt to contact the child's parent or guardian by phone, in person while the parent or guardian is visiting the facility, or, if necessary, by mail;

(2) if unsuccessful in contacting the child's parent or guardian under Subdivision (1), attempt at least one additional time each month to contact the child's parent or guardian; and

(3) document successful as well as unsuccessful attempts to contact the child's parent or guardian.

(c) To the extent practicable, a caseworker or another facility administrator shall attempt to communicate with a parent or guardian who does not speak English in the language of choice of the parent or guardian.

SECTION 49. Section 61.079(a), Human Resources Code, is amended to read as follows:

(a) After a child sentenced to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years of age but before the child becomes 19 ~~[21]~~ years of age, the commission may refer the child to the juvenile court that entered the order of commitment for approval of the child's transfer to the ~~[institutional division of the]~~ Texas Department of Criminal

Justice for confinement if:

(1) the child has not completed the sentence; and

(2) the child's conduct, regardless of whether the child was released under supervision under Section 61.081, indicates that the welfare of the community requires the transfer.

SECTION 50. Subchapter E, Chapter 61, Human Resources Code, is amended by adding Section 61.0791 to read as follows:

Sec. 61.0791. EVALUATION OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES. (a) When a child who is sentenced to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 18 years of age, the commission shall evaluate whether the child is in need of additional services that can be completed in the six-month period after the child's 18th birthday to prepare the child for release from the custody of the commission or transfer to the Texas Department of Criminal Justice.

(b) This section does not apply to a child who is released from the custody of the commission or who is transferred to the Texas Department of Criminal Justice before the child's 18th birthday.

SECTION 51. Subchapter F, Chapter 61, Human Resources Code, is amended by adding Sections 61.0814, 61.0815, and 61.0816 to read as follows:

Sec. 61.0814. REENTRY AND REINTEGRATION PLAN. (a) The commission shall develop a reentry and reintegration plan for each child committed to the custody of the commission. The plan for a child must be designed to ensure that the child receives an extensive continuity of care in services from the time the child is

1 committed to the commission to the time of the child's final
2 discharge from the commission. The plan for a child must include,
3 as applicable:

- 4 (1) housing assistance;
- 5 (2) a step-down program, such as placement in a
6 halfway house;
- 7 (3) family counseling;
- 8 (4) academic and vocational mentoring;
- 9 (5) trauma counseling for a child who is a victim of
10 abuse while in the custody of the commission; and
- 11 (6) other specialized treatment services appropriate
12 for the child.

13 (b) If a program or service in the child's reentry and
14 reintegration plan is not available at the time the child is to be
15 released, the commission shall find a suitable alternative program
16 or service so that the child's release is not postponed.

17 Sec. 61.0815. COMPLETION OF MINIMUM LENGTH OF STAY. (a)
18 After a child who is committed to the commission without a
19 determinate sentence completes the minimum length of stay
20 established by the commission for the child under Section 61.062,
21 the commission shall, in the manner provided by this section:

- 22 (1) discharge the child from the custody of the
23 commission;
- 24 (2) release the child under supervision under Section
25 61.081; or
- 26 (3) extend the length of the child's stay in the
27 custody of the commission.

1 (b) The commission by rule shall establish a panel whose
2 function is to review and determine whether a child who has
3 completed the child's minimum length of stay should be discharged
4 from the custody of the commission as provided by Subsection
5 (a)(1), be released under supervision under Section 61.081 as
6 provided by Subsection (a)(2), or remain in the custody of the
7 commission for an additional period of time as provided by
8 Subsection (a)(3).

9 (c) The executive commissioner shall determine the size of
10 the panel and the length of the members' terms of service on the
11 panel. The panel must consist of an odd number of members and the
12 terms of the panel's members must last for at least two years. The
13 executive commissioner shall adopt policies that ensure the
14 transparency, consistency, and objectivity of the panel's
15 composition, procedures, and decisions. The executive
16 commissioner shall appoint persons to serve as members of the
17 panel. A person appointed to the panel must be a commission
18 employee who works at the commission's central office. A member of
19 the panel may not be involved in any supervisory decisions
20 concerning children in the custody of the commission.

21 (d) The panel may extend the length of the child's stay as
22 provided by Subsection (a)(3) only if the panel determines by
23 majority vote and on the basis of clear and convincing evidence that
24 the child is in need of additional rehabilitation from the
25 commission and that the commission will provide the most suitable
26 environment for that rehabilitation. In extending the length of a
27 child's stay, the panel must specify the additional period of time

1 that the child is to remain in the custody of the commission and
 2 must conduct an additional review and determination as provided by
 3 this section on the child's completion of the additional term of
 4 stay. If the panel determines that the child's length of stay
 5 should not be extended, the commission must discharge the child
 6 from the custody of the commission as provided by Subsection (a)(1)
 7 or release the child under supervision under Section 61.081 as
 8 provided by Subsection (a)(2).

9 (e) The commission shall maintain statistics of the number
 10 of extensions granted by the panel. The statistics must include
 11 aggregated information concerning:

12 (1) the race, age, sex, specialized treatment needs,
 13 and county of origin for each child for whom an extension order is
 14 requested;

15 (2) the facility in which the child is confined; and

16 (3) if applicable, any allegations concerning the
 17 abuse, mistreatment, or neglect of the child, aggregated by the
 18 type of misconduct to which the child was subjected.

19 (f) To the extent authorized under law, the statistics
 20 maintained under Subsection (e) are public information under
 21 Chapter 552, Government Code, and the commission shall post the
 22 statistics on the commission's Internet website. The commission
 23 shall prepare and deliver to the standing committees of the senate
 24 and house of representatives with primary jurisdiction over matters
 25 concerning correctional facilities a report concerning the
 26 statistics maintained under Subsection (e).

27 (g) The commission shall provide a report to the parent,

1 guardian, or designated advocate of a child whose length of stay is
2 extended under this section explaining the panel's reason for the
3 extension.

4 Sec. 61.0816. REQUEST FOR RECONSIDERATION OF EXTENSION
5 ORDER. (a) The commission by rule shall establish a process to
6 request the reconsideration of an extension order issued by the
7 panel established under Section 61.0815.

8 (b) The process to request reconsideration must provide
9 that:

10 (1) a child, a parent, guardian, or designated
11 advocate of a child, an employee of the commission, or a person who
12 provides volunteer services at a commission facility may submit a
13 request for reconsideration of an extension order;

14 (2) the person submitting the request for
15 reconsideration of an extension order must state in the request the
16 reason for the request;

17 (3) after receiving a request for reconsideration of
18 an extension order, the panel shall reconsider an extension order
19 that:

20 (A) extends the child's stay in the custody of
21 the commission by six months or more; or

22 (B) combined with previous extension orders will
23 result in an extension of the child's stay in the custody of the
24 commission by six months or more;

25 (4) the panel's reconsideration of an extension order
26 includes consideration of the information submitted in the request;
27 and

1 (5) the panel shall send a written reply to the child,
2 the parent, guardian, or designated advocate of the child, and the
3 person who made the request for reconsideration of an extension
4 order that includes an explanation of the panel's decision after
5 reconsidering the extension order, including an indication that the
6 panel has considered the information submitted in the request.

7 (c) The commission shall create a form for a request for
8 reconsideration of an extension order that is clear and easy to
9 understand. The commission shall ensure that a child may request
10 assistance in completing a request for reconsideration of an
11 extension order.

12 (d) The commission shall maintain statistics of the number
13 of requests for reconsideration of an extension order that are
14 submitted and the action taken on reconsideration of the extension
15 order. The statistics must include aggregated information
16 concerning:

17 (1) the race, age, sex, specialized treatment needs,
18 and county of origin for each child for whom a request for
19 reconsideration of an extension order is submitted;

20 (2) whether a request for reconsideration of an
21 extension order results in:

22 (A) a discharge or release under supervision; or

23 (B) the original extension order being upheld;

24 (3) the facility in which the child is confined; and

25 (4) if applicable, any allegations concerning the
26 abuse, mistreatment, or neglect of the child, aggregated by the
27 type of misconduct to which the child was subjected.

(e) To the extent authorized under law, the statistics maintained under Subsection (d) are public information under Chapter 552, Government Code, and the commission shall post the statistics on the commission's Internet website. The commission shall prepare and deliver to the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities a report concerning the statistics maintained under Subsection (d).

SECTION 52. Sections 61.084(e) and (g), Human Resources Code, are amended to read as follows:

(e) Except as provided by Subsection ~~[(f) or]~~ (g), the commission shall discharge from its custody a person not already discharged on the person's 19th ~~[21st]~~ birthday.

(g) The commission shall transfer a person who has been sentenced under a determinate sentence to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been returned to the commission under Section 54.11(i)(1), Family Code, to the custody of the ~~[pardons and paroles division of the]~~ Texas Department of Criminal Justice on the person's 19th ~~[21st]~~ birthday, if the person has not already been discharged or transferred, to serve the remainder of the person's sentence on parole as provided by Section 508.156, Government Code.

SECTION 53. Section 61.0841, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Not later than the 90th day before the date the commission transfers a person to the custody of ~~[the pardons and~~

1 ~~parole division of~~ the Texas Department of Criminal Justice for
2 release on parole under Section 61.081(f) or 61.084(g) [~~61.084(f)~~
3 ~~or (g)~~], the commission shall submit to the department all
4 pertinent information relating to the person, including:

- 5 (1) the juvenile court judgment;
- 6 (2) the circumstances of the person's offense;
- 7 (3) the person's previous social history and juvenile
8 court records;
- 9 (4) the person's physical and mental health record;
- 10 (5) a record of the person's conduct, employment
11 history, and attitude while committed to the commission;
- 12 (6) a record of the sentence time served by the person
13 at the commission and in a juvenile detention facility in
14 connection with the conduct for which the person was adjudicated;
15 and
- 16 (7) any written comments or information provided by
17 the commission, local officials, family members of the person, [~~or~~]
18 victims of the offense, or the general public.

19 (c) The Texas Department of Criminal Justice shall grant
20 credit for sentence time served by a person at the commission and in
21 a juvenile detention facility, as recorded by the commission under
22 Subsection (a)(6), in computing the person's eligibility for parole
23 and discharge from the department.

24 SECTION 54. Section 61.093(a), Human Resources Code, is
25 amended to read as follows:

26 (a) If a child who has been committed to the commission and
27 placed by it in any institution or facility has escaped or has been

released under supervision and broken the conditions of release:

(1) a sheriff, deputy sheriff, constable, or police officer may, without a warrant, arrest the child; or

(2) a [~~parole officer or other~~] commission employee designated by the executive commissioner [~~director~~] may, without a warrant or other order, take the child into the custody of the commission.

SECTION 55. Subchapter G, Chapter 61, Human Resources Code, is amended by adding Sections 61.098 and 61.099 to read as follows:

Sec. 61.098. CERTAIN CRIMES CONCERNING THE COMMISSION. (a) In this section, "special prosecution unit" means the special prosecution unit established under Subchapter E, Chapter 41, Government Code.

(b) As appropriate, the district attorney, criminal district attorney, or county attorney representing the state in criminal matters before the district or inferior courts of the county who would otherwise represent the state in the prosecution of an offense or delinquent conduct concerning the commission and described by Article 104.003(a), Code of Criminal Procedure, may request that the special prosecution unit prosecute the offense or delinquent conduct.

(c) The office of inspector general shall on a quarterly basis prepare and deliver to the board of directors of the special prosecution unit a report concerning:

(1) any alleged criminal offense or delinquent conduct concerning the commission and described by Article 104.003(a), Code of Criminal Procedure, that occurred during the preceding calendar

1 quarter; and

2 (2) the disposition of any case involving a criminal
3 offense or delinquent conduct concerning the commission and
4 described by Article 104.003(a), Code of Criminal Procedure, that
5 occurred during the preceding calendar quarter.

6 (d) Notwithstanding Subsection (c), the office of inspector
7 general shall immediately provide the special prosecution unit with
8 a report concerning an alleged criminal offense or delinquent
9 conduct concerning the commission and described by Article
10 104.003(a), Code of Criminal Procedure, if the chief inspector
11 general reasonably believes the offense or conduct is particularly
12 serious and egregious.

13 (e) The chief inspector general of the office of inspector
14 general, at the direction of the board of directors of the special
15 prosecution unit, shall notify the foreman of the appropriate grand
16 jury, in the manner provided by Article 20.09, Code of Criminal
17 Procedure, if:

18 (1) the chief inspector general receives credible
19 evidence of illegal or improper conduct by commission officers,
20 employees, or contractors that the inspector general reasonably
21 believes jeopardizes the health, safety, and welfare of children in
22 the custody of the commission;

23 (2) the chief inspector general reasonably believes
24 the conduct:

25 (A) could constitute an offense under Article
26 104.003(a), Code of Criminal Procedure; and

27 (B) involves the alleged physical or sexual abuse

1 of a child in the custody of a commission facility or an
2 investigation related to the alleged abuse; and

3 (3) the chief inspector general has reason to believe
4 that information concerning the conduct has not previously been
5 presented to the appropriate grand jury.

6 Sec. 61.099. DUTY TO FILE COMPLAINT WITH LAW ENFORCEMENT
7 AGENCY. If the executive commissioner has reasonable cause to
8 believe that a child in the custody of the commission is the victim
9 of a crime committed at a commission facility, the executive
10 commissioner shall immediately file a complaint with the
11 appropriate law enforcement agency.

12 SECTION 56. Subtitle A, Title 3, Human Resources Code, is
13 amended by adding Chapter 64 to read as follows:

14 CHAPTER 64. OFFICE OF INDEPENDENT OMBUDSMAN OF THE TEXAS YOUTH
15 COMMISSION

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 64.001. DEFINITIONS. In this chapter:

18 (1) "Commission" means the Texas Youth Commission.

19 (2) "Independent ombudsman" means the individual who
20 has been appointed under this chapter to the office of independent
21 ombudsman.

22 (3) "Office" means the office of independent ombudsman
23 created under this chapter.

24 Sec. 64.002. ESTABLISHMENT; PURPOSE. The office of
25 independent ombudsman is a state agency established for the purpose
26 of investigating, evaluating, and securing the rights of the
27 children committed to the commission, including a child released

1 under supervision before final discharge.

2 Sec. 64.003. INDEPENDENCE. (a) The independent ombudsman
3 in the performance of its duties and powers under this chapter acts
4 independently of the commission.

5 (b) Funding for the independent ombudsman is appropriated
6 separately from funding for the commission.

7 [Sections 64.004-64.050 reserved for expansion]

8 SUBCHAPTER B. APPOINTMENT AND MANAGEMENT OF OFFICE

9 Sec. 64.051. APPOINTMENT OF INDEPENDENT OMBUDSMAN. (a)
10 The governor shall appoint the independent ombudsman with the
11 advice and consent of the senate for a term of two years, expiring
12 February 1 of odd-numbered years.

13 (b) A person appointed as independent ombudsman is eligible
14 for reappointment but may not serve more than three terms in that
15 capacity.

16 (c) Notwithstanding Subsection (a), as soon as practicable
17 after the effective date of this section, the executive
18 commissioner shall appoint the independent ombudsman for a term of
19 office expiring February 1, 2009. As provided by Subsection (a),
20 the governor shall appoint the independent ombudsman with the
21 advice and consent of the senate for each of the independent
22 ombudsman's subsequent terms of office. This subsection expires
23 March 1, 2009.

24 Sec. 64.052. ASSISTANTS. The independent ombudsman may
25 hire assistants to perform, under the direction of the independent
26 ombudsman, the same duties and exercise the same powers as the
27 independent ombudsman.

1 Sec. 64.053. CONFLICT OF INTEREST. (a) A person may not
2 serve as independent ombudsman or as an assistant to the
3 independent ombudsman if the person or the person's spouse:

4 (1) is employed by or participates in the management
5 of a business entity or other organization receiving funds from the
6 commission;

7 (2) owns or controls, directly or indirectly, any
8 interest in a business entity or other organization receiving funds
9 from the commission; or

10 (3) uses or receives any amount of tangible goods,
11 services, or funds from the commission.

12 (b) A person may not serve as independent ombudsman or as an
13 assistant to the independent ombudsman if the person or the
14 person's spouse is required to register as a lobbyist under Chapter
15 305, Government Code, because of the person's activities for
16 compensation on behalf of a profession related to the operation of
17 the commission.

18 (c) A person may not serve as independent ombudsman or as an
19 assistant to the independent ombudsman if the person or the
20 person's spouse is an officer, employee, manager, or paid
21 consultant of a Texas trade association in the field of criminal or
22 juvenile justice.

23 (d) For the purposes of this section, a Texas trade
24 association is a nonprofit, cooperative, and voluntarily joined
25 association of business or professional competitors in this state
26 designed to assist its members and its industry or profession in
27 dealing with mutual business or professional problems and in

1 promoting their common interest.

2 Sec. 64.054. SUNSET PROVISION. The office is subject to
3 review under Chapter 325, Government Code (Texas Sunset Act), but
4 is not abolished under that chapter. The office shall be reviewed
5 during the periods in which state agencies abolished in 2009 and
6 every 12th year after 2009 are reviewed.

7 Sec. 64.055. REPORT. (a) The independent ombudsman shall
8 submit on a quarterly basis to the governor, the lieutenant
9 governor, the state auditor, and each member of the legislature a
10 report that is both aggregated and disaggregated by individual
11 facility and describes:

12 (1) the work of the independent ombudsman;

13 (2) the results of any review or investigation
14 undertaken by the independent ombudsman, including reviews or
15 investigation of services contracted by the commission; and

16 (3) any recommendations that the independent
17 ombudsman has in relation to the duties of the independent
18 ombudsman.

19 (b) The independent ombudsman shall immediately report to
20 the governor, the lieutenant governor, the speaker of the house of
21 representatives, the state auditor, and the office of the inspector
22 general of the commission any particularly serious or flagrant:

23 (1) case of abuse or injury of a child committed to the
24 commission;

25 (2) problem concerning the administration of a
26 commission program or operation;

27 (3) problem concerning the delivery of services in a

1 facility operated by or under contract with the commission; or

2 (4) interference by the commission with an
3 investigation conducted by the office.

4 Sec. 64.056. COMMUNICATION AND CONFIDENTIALITY. (a) The
5 commission shall allow any child committed to the commission to
6 communicate with the independent ombudsman or an assistant to the
7 ombudsman. The communication:

8 (1) may be in person, by mail, or by any other means;
9 and

10 (2) is confidential and privileged.

11 (b) The records of the independent ombudsman are
12 confidential, except that the independent ombudsman shall:

13 (1) share with the office of inspector general of the
14 commission a communication with a child that may involve the abuse
15 or neglect of the child; and

16 (2) disclose its nonprivileged records if required by
17 a court order on a showing of good cause.

18 (c) The independent ombudsman may make reports relating to
19 an investigation public after the investigation is complete but
20 only if the names of all children, parents, and employees are
21 redacted from the report and remain confidential.

22 (d) The name, address, or other personally identifiable
23 information of a person who files a complaint with the office of
24 independent ombudsman, information generated by the office of
25 independent ombudsman in the course of an investigation, and
26 confidential records obtained by the office of independent
27 ombudsman are confidential and not subject to disclosure under

Chapter 552, Government Code, except that the information and records, other than confidential information and records concerning a pending law enforcement investigation or criminal action, may be disclosed to the appropriate person if the office determines that disclosure is:

- (1) in the general public interest;
- (2) necessary to enable the office to perform the responsibilities provided under this section; or
- (3) necessary to identify, prevent, or treat the abuse or neglect of a child.

Sec. 64.057. PROMOTION OF AWARENESS OF OFFICE. The independent ombudsman shall promote awareness among the public and the children committed to the commission of:

- (1) how the office may be contacted;
- (2) the purpose of the office; and
- (3) the services the office provides.

Sec. 64.058. RULEMAKING AUTHORITY. The office by rule shall establish policies and procedures for the operations of the office of independent ombudsman.

Sec. 64.059. AUTHORITY OF STATE AUDITOR. The office is subject to audit by the state auditor in accordance with Chapter 321, Government Code.

[Sections 64.060-64.100 reserved for expansion]

SUBCHAPTER C. DUTIES AND POWERS

Sec. 64.101. DUTIES AND POWERS. (a) The independent ombudsman shall:

- (1) review the procedures established by the

1 commission and evaluate the delivery of services to children to
2 ensure that the rights of children are fully observed;

3 (2) review complaints filed with the independent
4 ombudsman concerning the actions of the commission and investigate
5 each complaint in which it appears that a child may be in need of
6 assistance from the independent ombudsman;

7 (3) conduct investigations of complaints, other than
8 complaints alleging criminal behavior, if the office determines
9 that:

10 (A) a child committed to the commission or the
11 child's family may be in need of assistance from the office; or

12 (B) a systemic issue in the commission's
13 provision of services is raised by a complaint;

14 (4) review or inspect periodically the facilities and
15 procedures of any institution or residence in which a child has been
16 placed by the commission, whether public or private, to ensure that
17 the rights of children are fully observed;

18 (5) provide assistance to a child or family who the
19 independent ombudsman determines is in need of assistance,
20 including advocating with an agency, provider, or other person in
21 the best interests of the child;

22 (6) review court orders as necessary to fulfill its
23 duties;

24 (7) recommend changes in any procedure relating to the
25 treatment of children committed to the commission;

26 (8) make appropriate referrals under any of the duties
27 and powers listed in this subsection; and

1 (9) supervise assistants who are serving as advocates
2 in their representation of children committed to the commission in
3 internal administrative and disciplinary hearings.

4 (b) The independent ombudsman may apprise persons who are
5 interested in a child's welfare of the rights of the child.

6 (c) To assess if a child's rights have been violated, the
7 independent ombudsman may, in any matter that does not involve
8 alleged criminal behavior, contact or consult with an
9 administrator, employee, child, parent, expert, or any other
10 individual in the course of its investigation or to secure
11 information.

12 (d) Notwithstanding any other provision of this chapter,
13 the independent ombudsman may not investigate alleged criminal
14 behavior.

15 Sec. 64.102. TREATMENT OF COMMISSION EMPLOYEES WHO
16 COOPERATE WITH INDEPENDENT OMBUDSMAN. The commission may not
17 discharge or in any manner discriminate or retaliate against an
18 employee who in good faith makes a complaint to the office of
19 independent ombudsman or cooperates with the office in an
20 investigation.

21 Sec. 64.103. TRAINING. The independent ombudsman shall
22 attend annual sessions, including the training curriculum for
23 juvenile correctional officers required under Section 61.0356, and
24 may participate in other appropriate professional training.

25 [Sections 64.104-64.150 reserved for expansion]

26 SUBCHAPTER D. ACCESS TO INFORMATION

27 Sec. 64.151. ACCESS TO INFORMATION OF GOVERNMENTAL

1 ENTITIES. (a) The commission shall allow the independent
2 ombudsman access to its records relating to the children committed
3 to the commission.

4 (b) The Department of Public Safety shall allow the
5 independent ombudsman access to the juvenile justice information
6 system established under Subchapter B, Chapter 58, Family Code.

7 (c) A local law enforcement agency shall allow the
8 independent ombudsman access to its records relating to any child
9 in the care or custody of the commission.

10 Sec. 64.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES.
11 The independent ombudsman shall have access to the records of a
12 private entity that relate to a child committed to the commission.

13 SECTION 57. Section 141.022(a), Human Resources Code, is
14 amended to read as follows:

15 (a) The advisory council on juvenile services consists of:

16 (1) two juvenile court judges, appointed by the
17 commission;

18 (2) three juvenile probation officers, appointed by
19 the commission;

20 (3) two citizens who are knowledgeable of juvenile
21 services, appointed by the commission;

22 (4) the executive commissioner [~~director~~] of the Texas
23 Youth Commission or the commissioner's [~~director's~~] designee;

24 (5) the commissioner of education or the
25 commissioner's designee; and

26 (6) the commissioner of human services or the
27 commissioner's designee.

SECTION 58. Section 141.047(b), Human Resources Code, is amended to read as follows:

(b) The director, the executive commissioner [~~director~~] of the Texas Youth Commission, and the commissioners of education, mental health and mental retardation, and human services shall meet in Austin at least quarterly to:

- (1) discuss mutual problems;
- (2) resolve conflicts in providing services to juveniles; and
- (3) make recommendations to the governor and legislature.

SECTION 59. Section 141.0471(c), Human Resources Code, is amended to read as follows:

(c) The governing board of the Texas Juvenile Probation Commission and the executive commissioner of the Texas Youth Commission [~~each agency~~] shall adopt the coordinated strategic plan on or before December 1st of each odd-numbered year, or before the adoption of the agency's individual strategic plan, whichever is earlier.

SECTION 60. Section 110.302(c), Occupations Code, is amended to read as follows:

(c) The Texas Board of Criminal Justice [~~or the governing board of the Texas Youth Commission~~] may vote to exempt employees of the Texas Department of Criminal Justice [~~or the Texas Youth Commission, as appropriate,~~] from a specific licensing requirement imposed under this section if the board determines that the requirement causes financial or operational hardship on the agency.

1 The Texas Youth Commission may not exempt any employee of the
2 commission from a licensing requirement imposed by this section for
3 any reason.

4 SECTION 61. Sections 39.04(a) and (b), Penal Code, are
5 amended to read as follows:

6 (a) An official of a correctional facility, an employee of a
7 correctional facility, a person other than an employee who works
8 for compensation at a correctional facility, a volunteer at a
9 correctional facility, or a peace officer commits an offense if the
10 person intentionally:

11 (1) denies or impedes a person in custody in the
12 exercise or enjoyment of any right, privilege, or immunity knowing
13 his conduct is unlawful; or

14 (2) engages in sexual contact, sexual intercourse, or
15 deviate sexual intercourse with an individual in custody or, in the
16 case of an individual in the custody of the Texas Youth Commission,
17 employs, authorizes, or induces the individual to engage in sexual
18 conduct or a sexual performance.

19 (b) An offense under Subsection (a)(1) is a Class A
20 misdemeanor. An offense under Subsection (a)(2) is a state jail
21 felony, except that an offense under Subsection (a)(2) is a felony
22 of the second degree if the individual is in the custody of the
23 Texas Youth Commission.

24 SECTION 62. Section 39.04(e), Penal Code, is amended by
25 adding Subdivisions (4) and (5) to read as follows:

26 (4) "Sexual conduct" and "performance" have the
27 meanings assigned by Section 43.25.

1 (5) "Sexual performance" means any performance or part
2 thereof that includes sexual conduct by an individual.

3 SECTION 63. The following laws are repealed:

4 (1) Sections 54.04(s) and (t), Family Code;

5 (2) Section 54.05(k), Family Code; and

6 (3) Sections 61.001(3), 61.0122, 61.014, 61.015,
7 61.0151, 61.017, 61.084(f), and 141.042(d), Human Resources Code.

8 SECTION 64. A person committed to the Texas Youth
9 Commission on the basis of conduct constituting the commission of
10 an offense of the grade of misdemeanor under Section 54.04(d)(2),
11 Family Code, as it existed before the effective date of this Act,
12 must be discharged from the custody of the Texas Youth Commission
13 not later than the person's 19th birthday.

14 SECTION 65. (a) Not later than November 1, 2007, the Texas
15 Juvenile Probation Commission shall issue guidelines for the
16 creation of community-based programs required by Section 54.0401,
17 Family Code, as added by this Act.

18 (b) Not later than January 1, 2008, the juvenile board of a
19 county to which Section 54.0401, Family Code, as added by this Act,
20 applies shall implement a community-based program that complies
21 with the guidelines established by the Texas Juvenile Probation
22 Commission.

23 SECTION 66. The change in law made by Section 54.052, Family
24 Code, as added by this Act, and Section 61.0841(c), Human Resources
25 Code, as added by this Act, applies only to conduct for which a
26 child is adjudicated on or after the effective date of this Act. A
27 child who is adjudicated before the effective date of this Act is

governed by the law in effect when the child was adjudicated, and the former law is continued in effect for that purpose.

SECTION 67. The change in law made by this Act to Section 39.04, Penal Code, applies only to an offense committed on or after September 1, 2007. An offense committed before September 1, 2007, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2007, if any element of the offense occurred before that date.

SECTION 68. The Texas Youth Commission shall develop and adopt a mission statement, as required by Section 61.0345, Human Resources Code, as added by this Act, on or before October 1, 2007.

SECTION 69. (a) Section 61.0356(b), Human Resources Code, as added by this Act, applies only to a juvenile correctional officer hired by the Texas Youth Commission on or after the effective date of this Act. As soon as practicable but not later than six months after the effective date of this Act, the Texas Youth Commission shall complete providing the training to juvenile correctional officers hired before the effective date of this Act that is necessary to conform to the requirements of Section 61.0356(b), Human Resources Code, as added by this Act.

(b) As soon as practicable after the effective date of this Act, the Texas Youth Commission shall ensure that:

(1) each correctional facility operated by the commission that has a dormitory, including an open-bay dormitory, has a ratio of not less than one juvenile correctional officer performing direct supervisory duties for every 12 children

1 committed to the facility, as required by Section 61.0356(d), Human
2 Resources Code, as added by this Act; and

3 (2) children younger than 15 years of age are assigned
4 to separate correctional facility dorms from persons who are at
5 least 17 years of age as required by Section 61.061, Human Resources
6 Code, as added by this Act.

7 SECTION 70. As soon as practicable after the effective date
8 of this Act, the governor shall appoint the executive commissioner
9 of the Texas Youth Commission, as required by Section 61.012, Human
10 Resources Code, as amended by this Act, with a term of office
11 expiring February 1, 2009.

12 SECTION 71. As soon as practicable after the effective date
13 of this Act:

14 (1) the governor shall appoint three members of the
15 advisory board of the Texas Youth Commission, as required by
16 Section 61.013, Human Resources Code, as amended by this Act;

17 (2) the speaker of the house of representatives shall
18 appoint three members of the advisory board of the Texas Youth
19 Commission, as required by Section 61.013, Human Resources Code, as
20 amended by this Act; and

21 (3) the lieutenant governor shall appoint three
22 members of the advisory board of the Texas Youth Commission, as
23 required by Section 61.013, Human Resources Code, as amended by
24 this Act.

25 SECTION 72. A rule adopted by the Texas Youth Commission
26 before the effective date of this Act is a rule of the executive
27 commissioner of the Texas Youth Commission until superseded,

1 modified, or repealed by the executive commissioner.

2 SECTION 73. The Health and Human Services Commission, the
3 Texas Youth Commission, and the Texas Juvenile Probation Commission
4 shall jointly establish a timetable for the submission of agency
5 reports required by Section 531.016, Government Code, as added by
6 this Act, as soon as practicable after the effective date of this
7 Act.

8 SECTION 74. Before October 1, 2007, the Texas Youth
9 Commission shall certify to the Employees Retirement System of
10 Texas, in the manner prescribed by the retirement system, the name
11 of each person employed by the office of inspector general at the
12 Texas Youth Commission as a law enforcement officer, as defined by
13 Section 811.001, Government Code, as amended by this Act, and any
14 other information the system determines is necessary for the
15 crediting of service and financing of benefits under Subtitle B,
16 Title 8, Government Code.

17 SECTION 75. As soon as practicable after the effective date
18 of this Act, the Texas Youth Commission shall, in the manner
19 prescribed by Section 61.0357, Human Resources Code, as added by
20 this Act, begin obtaining national criminal history record
21 information for each person who is described by Section 61.0357(b),
22 Human Resources Code, as added by this Act.

23 SECTION 76. (a) Not later than September 30, 2007, the
24 board of directors of the special prosecution unit established by
25 Subchapter E, Chapter 41, Government Code, as added by this Act,
26 shall elect the initial members of the executive board of the board
27 of directors as required by Section 41.304, Government Code, as

1 added by this Act. In electing those members, the board of
2 directors shall specify:

3 (1) which members serve terms expiring in
4 even-numbered years and which serve terms expiring in odd-numbered
5 years; and

6 (2) the beginning and end dates of the terms served by
7 the members of the executive board.

8 (b) Not later than September 30, 2007, the board of
9 directors of the special prosecution unit established by Subchapter
10 E, Chapter 41, Government Code, as added by this Act, shall elect
11 the presiding officer and the assistant presiding officer of the
12 board of directors and the executive board of the board of directors
13 as required by Section 41.305, Government Code, as added by this
14 Act. In electing those officers, the board of directors shall
15 specify the beginning and end dates of the terms served by the
16 officers.

17 (c) As soon as possible after the effective date of this
18 Act, the executive board of the board of directors of the special
19 prosecution unit established by Subchapter E, Chapter 41,
20 Government Code, as added by this Act, shall elect the counsellor as
21 required by Section 41.309, Government Code, as added by this Act.

22 SECTION 77. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect September 1, 2007.

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SENATE VERSION

The Senate version modifies the current governance structure of the Texas Youth Commission to replace the governing board with an executive commissioner, who is appointed by the governor, and an advisory board, the members of which are appointed by the governor.

The Senate version also establishes the Office of the Inspector General at the commission and the Office of the Ombudsman at the commission. The executive commissioner selects the chief ombudsman.

Many of the provisions noted as making conforming changes are related to the modification of the governance structure or the creation of new entities.

SECTION 1. Article 2.12, Code of Criminal Procedure, is amended.

No equivalent provision.

HOUSE VERSION

The House version maintains the current board governance structure of the commission.

The House version establishes the Office of the Inspector General at the commission; creates the Office of the Ombudsman as an independent state agency headed by an independent ombudsman who is appointed by the governor, and creates an Independent Special Prosecution Unit governed by a board of directors composed of prosecuting attorneys from counties with commission or Texas Department of Criminal Justice facilities. An executive board governs the board of directors of the unit and elects a counsellor.

Many of the provisions noted as making conforming changes are related to the creation of new entities.

Same as Senate version.

SECTION __. Article 61.06(c), Code of Criminal Procedure, is amended to provide that, in determining when information about street gang activity must be removed from certain intelligence databases, the three-year period does not include any period during which the

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SECTION 1. Same as Senate version.

SECTION 2. Same as House version except makes technical corrections.

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individual who is the subject of the information is committed to a secure correctional facility operated by or under contract with the Texas Youth Commission (TYC), as defined by Section 51.02, Family Code, or a facility operated by a juvenile board in lieu of being committed to a secure correctional facility operated by or under contract with the TYC.

SECTION 2. Amends Article 61.10(f), Code of Criminal Procedure, to make a change conforming to the redefinition of the executive director of the Texas Youth Commission (TYC) as the executive commissioner of the commission in Section 61.001, Human Resources Code, found in SECTION 14 below.

No equivalent provision.

Same as House version.

SECTION 3. Subsection (a), Article 104.003, Code of Criminal Procedure, is amended to read as follows:
(a) *In a prosecution of a felony committed while the actor was a prisoner in the custody of the Texas Department of Criminal Justice, a prosecution of an offense committed in the department by any person under Section 38.11, Penal Code, Chapter 481, Health and Safety Code, or Sections 485.031 through 485.035, Health and Safety Code, a prosecution of a criminal offense or delinquent conduct committed on property owned or operated by or under contract with the Texas Youth Commission, or a prosecution of a criminal offense or delinquent conduct committed by or against a person in the custody of the commission while the person*

SECTION 2. Article 104.003(a), Code of Criminal Procedure, is amended to read as follows:
(a) In a prosecution of a criminal offense or delinquent conduct committed on property owned or operated by or under contract with the *Texas Department of Criminal Justice or the Texas Youth Commission*, or committed by or against a person in the custody of the *department or commission* while the person is performing a duty away from department or commission property, the state shall reimburse the county for expenses incurred by the county, in an amount that the court determines to be reasonable, for payment of certain expenses.

SECTION 3. Same as House version.

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was performing a duty away from commission property, the state shall reimburse the county for expenses incurred by the county, in an amount that the court determines to be reasonable, for payment of certain expenses.

SECTION 4. Section 37.203(a), Education Code, is amended to make a conforming change.

No equivalent provision.

HOUSE VERSION

No equivalent provision.

SECTION __. Section 51.12, Family Code, relating to place and conditions of detention, is amended by adding Subsections (b-1), (c-1), and (m) and amending Subsections (c) and (i) as follows:

(b-1) Provides that a pre-adjudication secure detention facility may be operated only by a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code, or a private entity under a contract with a governmental unit in this state.

(c) Modifies the inspection authority of the juvenile court judge and juvenile board members to include inspection of all public or private juvenile pre-adjudication secure detention facilities located in the county and makes conforming change. Requires the juvenile court judges and juvenile board members, in determining whether a facility is suitable or unsuitable for the detention of children, to consider: (1) current monitoring and inspection reports and any noncompliance citation reports issued by the Texas Juvenile Probation Commission, including the report provided under Subsection (c-1), and the status of any

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SECTION 4. Same as Senate version.

SECTION 5. Same as House version.

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required corrective actions; (2) current governmental inspector certification regarding the facility's compliance with local fire codes; (3) current building inspector certification regarding the facility's compliance with local building codes; (4) for the 12-month period preceding the inspection, the total number of allegations of abuse, neglect, or exploitation reported by the facility and a summary of the findings of any investigations of abuse, neglect, or exploitation conducted by the facility, a local law enforcement agency, and the Texas Juvenile Probation Commission; (5) the availability of health and mental health services provided to facility residents; (6) the availability of educational services provided to facility residents; and (7) the overall physical appearance of the facility, including the facility's security, maintenance, cleanliness, and environment.

(c-1) Requires the Texas Juvenile Probation Commission to inspect annually each public or private juvenile pre-adjudication secure detention facility and to provide a report to each juvenile court judge presiding in the same county as an inspected facility indicating whether the facility is suitable or unsuitable for the detention of children in accordance with certain criteria.

(i) Makes conforming changes.

(m) Authorizes the Texas Juvenile Probation Commission to deny, suspend, or revoke the registration of any facility required to register under Subsection (i) if the facility fails to meet certain criteria.

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No equivalent provision.

HOUSE VERSION

SECTION __. Adds Section 51.125, Family Code, as follows:

Sec. 51.125. POST-ADJUDICATION CORRECTIONAL FACILITIES. (a) Provides that a post-adjudication secure correctional facility for juvenile offenders may be operated only by a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code, or a private entity under a contract with a governmental unit in this state.

(b) Requires each juvenile court judge and a majority of the juvenile board members in each county to personally inspect all public or private juvenile post-adjudication secure correctional facilities that are not operated by the TYC and that are located in the county at least annually and to certify in writing to the authorities responsible for operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that the facility or facilities are suitable or unsuitable for the *detention* of children. Requires the juvenile court judges and juvenile board members, in determining a facility's suitability or unsuitability, to consider current monitoring and inspection reports and any noncompliance citation reports issued by the Texas Juvenile Probation Commission, including the report provided under Subsection (c) and the status of any required corrective actions, and the other factors described by Sections 51.12(c)(2)-(7).

(c) Requires the Texas Juvenile Probation Commission to inspect annually each public or private juvenile post-

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SECTION 6. Same as House version except in Subsections (b) and (c) refers to confinement of children, rather than detention of children.

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adjudication secure correctional facility that is not operated by the TYC and to report to each juvenile court judge presiding in the same county as an inspected facility on whether the facility is suitable or unsuitable for the *detention* of children in accordance with minimum professional standards for the *detention* of children in post-adjudication secure confinement promulgated by the Texas Juvenile Probation Commission or, at the election of the juvenile board of the county in which the facility is located, the current standards promulgated by the American Correctional Association.

(d) Requires a governmental unit or private entity that operates or contracts for the operation of a juvenile post-adjudication secure correctional facility in this state under Subsection (a), except for a facility operated by or under contract with the TYC, to register the facility annually with the Texas Juvenile Probation Commission and adhere to all applicable minimum standards for the facility.

(e) Authorizes the Texas Juvenile Probation Commission to deny, suspend, or revoke the registration of any facility required to register under Subsection (d) if the facility fails to meet certain criteria.

SECTION 5. Sections 54.04(d), (o), and (u), Family Code, are amended. As amended, Subsection (o) prohibits a child adjudicated as having engaged in

SECTION 3. Same as Senate version except does not amend Subsection (o).

SECTION 7. Same as House version.

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delinquent conduct violating a penal law of this state or the United States of the grade of misdemeanor from being, under any circumstances, committed to the TYC for that conduct.

No equivalent provision.

HOUSE VERSION

SECTION __. Adds Section 54.0401, Family Code, as follows:

Sec. 54.0401. COMMUNITY-BASED PROGRAMS.

(a) Makes this section applicable only to a county that has a population of at least 335,000.

(b) Allows a juvenile court of a county subject to this section to require a child who is found to have engaged in certain misdemeanor delinquent conduct and for whom the requirements of Subsection (c) are met to participate in a community-based program administered by the county's juvenile board.

(c) Allows a juvenile court to make a disposition under Subsection (b) for delinquent conduct that violates a penal law of the grade of misdemeanor: (1) if: (A) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of misdemeanor on at least two previous occasions; (B) of the previous adjudications, the conduct that was the basis for one of the adjudications occurred after the date of another previous adjudication; and (C) the conduct that is the basis of the current adjudication occurred after the date of at least two previous adjudications; or (2) if: (A) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of

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SECTION 8. Same as House version except also provides that Subsection (f) expires February 1, 2009.

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felony on at least one previous occasion; and (B) the conduct that is the basis of the current adjudication occurred after the date of that previous adjudication.

(d) Requires the Texas Juvenile Probation Commission to establish guidelines for the implementation of community-based programs described by this section and requires the juvenile board of each county subject to this section to implement a community-based program that complies with those guidelines.

(e) Requires the Texas Juvenile Probation Commission to provide grants to selected juvenile boards to assist with the implementation of a system of community-based programs under this section.

(f) Requires the Texas Juvenile Probation Commission, not later than January 1, 2009, to prepare and deliver to the governor, the lieutenant governor, and each member of the legislature a report describing the implementation and effectiveness of the community-based programs described by this section and including information relating to the cost of requiring a child to participate in a community-based program.

No equivalent provision.

SECTION __. (a) Requires the Texas Juvenile Probation Commission, not later than November 1, 2007, to issue guidelines for the creation of community-based programs required by Section 54.0401, Family Code, as added by this Act.

(b) Requires the juvenile board of a county to which Section 54.0401, Family Code, applies, not later than

SECTION 65. Same as House version.

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January 1, 2008, to implement a community-based program that complies with the guidelines established by the Texas Juvenile Probation Commission.

SECTION 6. Subsection (f), Section 54.05, Family Code, is amended.

SECTION 4. Same as Senate version.

SECTION 9. Same as Senate version.

No equivalent provision.

SECTION 5. Adds Section 54.052, Family Code, as follows:

Sec. 54.052. CREDIT FOR TIME SPENT IN DETENTION FACILITY FOR CHILD WITH DETERMINATE SENTENCE. (a) Makes this section applicable only to a child who is committed to the TYC under a determinate sentence under Section 54.04(d)(3) or (m) or Section 54.05(f).

(b) Requires the judge of the court in which a child is adjudicated to give the child credit on the child's sentence for the time spent by the child, in connection with the conduct for which the child was adjudicated, in a secure detention facility before the child's transfer to a TYC facility.

(c) Requires the judge of the court in which the child was adjudicated, if a child appeals the child's adjudication and is retained in a secure detention facility pending the appeal, to give the child credit on the child's sentence for the time spent by the child in a secure detention facility pending disposition of the appeal and to endorse on both the commitment and the mandate from the appellate court all credit given the child under

SECTION 10. Same as House version.

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this subsection.

(d) Requires the TYC to grant any credit under this section in computing the child's eligibility for parole and discharge.

No equivalent provision.

SECTION 6. Section 58.106(a), Family Code, is amended to add the office of independent ombudsman of the TYC to the list of entities eligible to receive certain confidential juvenile justice information. Makes a conforming change.

SECTION 11. Same as House version.

No equivalent provision.

SECTION __. Section 261.201, Family Code, relating to confidentiality and disclosure of information, is amended by adding Subsections (i) and (j) as follows:

(i) Notwithstanding Subsection (a), requires the TYC to release a report of alleged or suspected abuse or neglect made under this chapter if the report relates to a report of abuse or neglect involving a child committed to the commission during the period that the child is committed to the commission and the commission is not prohibited by Chapter 552, Government Code, or other law from disclosing the report.

(j) Requires the TYC to edit any report disclosed under Subsection (i) to protect the identity of a child who is the subject of the report of alleged or suspected abuse or neglect, the person who made the report, and any other person whose life or safety may be endangered by the disclosure.

SECTION 12. Same as House version.

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SECTION 7. Section 41.102, Government Code, is amended.

No equivalent provision.

HOUSE VERSION

Same as Senate version.

SECTION 8. Chapter 41, Government Code, is amended by adding Subchapter E as follows:

SUBCHAPTER E. SPECIAL PROSECUTION UNIT

Sec. 41.301. DEFINITIONS. Provides that in this subchapter:

- (1) "Board of directors" means the unit's board of directors.
- (2) "Commission" means the Texas Youth Commission.
- (3) "Department" means the Texas Department of Criminal Justice.
- (4) "Executive board" means the executive board governing the unit's board of directors.
- (5) "Prosecuting attorney" means a district attorney, a criminal district attorney, or a county attorney representing the state in criminal matters before the district or inferior courts of the county.
- (6) "Unit" means the special prosecution unit.

Sec. 41.302. GENERAL FUNCTION OF SPECIAL PROSECUTION UNIT. Stipulates that the special prosecution unit is an independent unit that cooperates with and supports prosecuting attorneys in prosecuting offenses and delinquent conduct described by Article 104.003(a), Code of Criminal Procedure.

Sec. 41.303. BOARD OF DIRECTORS. Provides that the unit is governed by a board of directors composed of each prosecuting attorney who represents the state in

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SECTION 13. Same as Senate version.

SECTION 14. Same as House version.

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criminal matters before a court in a county in which one or more facilities owned or operated by or under contract with the department or the commission are located and that such a prosecuting attorney shall serve on the board of directors in addition to the other duties of the prosecuting attorney assigned by law.

Sec. 41.304. EXECUTIVE BOARD. Sets out provisions relating to the membership of and vacancies on the executive board that governs the board of directors.

Sec. 41.305. OFFICERS. Sets out provisions relating to executive board governance and filling a vacancy in the office of presiding officer or assistant presiding officer.

Sec. 41.306. MEMBERSHIP ON BOARD OF DIRECTORS OR EXECUTIVE BOARD NOT A CIVIL OFFICE OF EMOLUMENT. Provides that a position on the board of directors or the executive board may not be construed to be a civil office of emolument for any purpose, including those purposes described in Section 40, Article XVI, Texas Constitution.

Sec. 41.307. REIMBURSEMENT FOR EXPENSES. Provides that a member of the board of directors or executive board is not entitled to compensation for service on the board of directors or executive board but is entitled to be reimbursed for certain expenses.

Sec. 41.308. CHIEF OF SPECIAL PROSECUTION UNIT; ADDITIONAL EMPLOYEES. Requires the board of directors, on a majority vote, to employ a person to serve as chief of the unit and additional persons

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to accomplish the unit's purposes and authorizes the board of directors to determine the compensation of the unit's employees.

Sec. 41.309. ELECTION OF COUNSELLOR. Requires the executive board, on a majority vote, to elect a counsellor and sets out eligibility requirements.

Sec. 41.310. DUTIES OF COUNSELLOR. (a) Requires the counsellor elected in accordance with Section 41.309 to coordinate prosecution issues in and monitor each case involving an offense or delinquent conduct described by Article 104.003(a), Code of Criminal Procedure, that concerns the commission and to work with criminal justice analysts employed by the Legislative Budget Board and other persons who monitor cases involving offenses or delinquent conduct described by Article 104.003(a), Code of Criminal Procedure. Allows the counsellor to conduct an investigation of any alleged illegal or improper conduct by commission officers, employees, or contractors that the counsellor reasonably believes jeopardizes the health, safety, and welfare of children in the custody of the commission and could constitute an offense described by Article 104.003(a), Code of Criminal Procedure.

No equivalent provision. (Similar to duties of the special prosecution unit within the office of the inspector general as outlined in Section 61.098(b), Human Resources Code, found in SECTION 36 below.)

(b) In addition to the duties prescribed by Subsection (a), requires the counsellor to provide the board of directors and the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a quarterly

Same as House version.

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report concerning offenses or delinquent conduct prosecuted by the unit on receiving a request for assistance under Section 61.098, Human Resources Code, or a request for assistance otherwise from a prosecuting attorney. A report under this subsection is public information under Chapter 552, Government Code, and the board of directors shall request that the commission publish the report on the commission's Internet website. A report must be both aggregated and disaggregated by individual facility and include information relating to: (1) the number of requests for assistance received under Section 61.098, Human Resources Code, and requests for assistance otherwise received from prosecuting attorneys; (2) the number of cases investigated and the number of cases prosecuted; (3) the types and outcomes of cases prosecuted, such as whether the case concerned narcotics or an alleged incident of sexual abuse; and (4) the relationship of a victim to a perpetrator, if applicable.

No equivalent provision.

(c) Requires the counsellor, in consultation with the board of directors, to notify the foreman of the appropriate grand jury, in the manner provided by Article 20.09, Code of Criminal Procedure, if the counsellor: (1) receives credible evidence of illegal or improper conduct by commission officers, employees, or contractors that the counsellor reasonably believes jeopardizes the health, safety, and welfare of children in the custody of the commission; (2) reasonably believes the conduct could

Same as House version.

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SECTION 8. Adds Section 325.0121, Government Code, as follows:

Sec. 325.0121. STUDY ON TRANSITION TOWARD REGIONALIZED JUVENILE CORRECTIONS.

(a) Requires the commission to *appoint an advisory committee* as provided by this section to *develop a practicable plan* to move the TYC toward a certain regionalized structure.

(b) Requires the commission to take into consideration the findings and recommendations of the advisory committee in its report to the legislature under Section 325.012 as part of its review of the TYC, which, as provided by Section 61.020, Human Resources Code, is abolished September 1, 2009, unless continued in existence as provided by this chapter.

(c) Requires the commission to appoint an advisory committee not later than December 1, 2007.

(d)-(h) Sets out provisions relating to membership, governance, meetings, compensation, and a required report of the advisory committee.

constitute an offense described by Article 104.003(a), Code of Criminal Procedure, and involves the alleged physical or sexual abuse of a child in the custody of a commission facility or an investigation related to the alleged abuse; and (3) has reason to believe that information concerning the conduct has not previously been presented to the appropriate grand jury.

SECTION 9. (a)-(b) Same as Senate version except requires the commission, *as part of its review of juvenile corrections for the 81st Legislature, to study the merits* of moving the TYC toward such a structure and to determine whether the existing TYC facilities meet their intended purposes.

(c)-(d) Requires the commission to take into consideration the findings and conclusions of the study in its report to the 81st Legislature and to include any recommendations it considers appropriate resulting from its consideration of the study and authorizes the commission, in conducting the study, to seek the assistance of nationally recognized experts in the field of juvenile justice.

No equivalent provision.

No equivalent provision.

SECTION 15. Same as House version except also adds Section 325.0122, relating to a study on the governance of the Texas Youth Commission, to require the commission to study the merits of an executive commissioner governing the commission as compared to a citizen board and to make recommendations concerning the governance of the commission in its report to the legislature under Section 325.012 as part of its review of the commission, which, as provided by Section 61.020, Human Resources Code, is abolished September 1, 2009, unless continued in existence as provided by this chapter. Provides that this section expires September 1, 2009.

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(i) This section expires September 1, 2009.

No equivalent provision.

No equivalent provision.

SECTION 9. Subsection (b), Section 497.052, Government Code, is amended to make a conforming change.

No equivalent provision.

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HOUSE VERSION

(e) Same as Senate version.

SECTION 10. Section 411.1141(a), Government Code, is amended to make changes conforming to the addition of Section 61.0357, Human Resources Code, found in SECTION 23 below.

SECTION 11. Adds Section 493.026, Government Code, as follows:
Sec. 493.026. INSPECTOR GENERAL REPORT ON CRIMINAL OFFENSES. (a) Defines "special prosecution unit" to mean the special prosecution unit established under Subchapter E, Chapter 41.
(b) Requires the inspector general of the department to prepare and deliver to the board of directors of the special prosecution unit a quarterly report concerning any alleged criminal offense concerning the department and described by Article 104.003(a), Code of Criminal Procedure, that occurred during the preceding calendar quarter.

No equivalent provision.

SECTION 12. Section 508.156(a), Government Code, is amended to make a change conforming to the repeal of Section 61.084(f), Human Resources Code, relating to the transfer of a person who has been sentenced under a

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SECTION 16. Same as House version.

SECTION 17. Same as House version.

SECTION 18. Same as Senate version.

SECTION 19. Same as House version.

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No equivalent provision.

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determinate sentence, found in SECTION 38 below.

SECTION ____ Adds Section 531.016, Government Code, as follows:

Sec. 531.016. EQUAL ACCESS TO FACILITIES, SERVICES, AND TREATMENT. (a) Requires the commission, the TYC, and the Texas Juvenile Probation Commission periodically to review, document, and compare the accessibility and funding of facilities, services, and treatment provided to females under 18 years of age to the accessibility and funding of facilities, services, and treatment provided to males in the same age group.

(b) Requires the commission to coordinate the review, documentation, and comparison required by Subsection (a).

(c) The areas of review required by Subsection (a) must include: (1) the nature, extent, and effectiveness of services offered for females under 18 years of age within the areas of teen pregnancy, physical and sexual abuse, and alcohol and drug abuse, services for runaway and homeless females, and services for females involved in gangs or other delinquent activity; and (2) the equity of services offered to persons under 18 years of age with respect to gender within the areas of physical and sexual abuse, alcohol and drug abuse, and services offered to runaway and homeless youth.

(d) Requires each health and human services agency or other state agency that provides facilities, services,

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SECTION 20. Substantially the same as House version.

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treatment, or funding subject to the review required by Subsection (a) to identify existing differences within the agency in the allocation and expenditures of money and services for males under 18 years of age in comparison to females in the same age group and to submit a report to the commission describing any differences identified.

(e) Requires each agency described by Subsection (d) to develop a plan to address any lack of services for females under 18 years of age reported by the agency and submit a report to the commission on the progress made under the plan.

(f) Requires the commission to assemble the agency reports submitted under Subsections (d) and (e) and prepare an executive summary to be delivered to the members of the legislature not later than July 1 of each even-numbered year.

(g) This section expires September 1, 2011.

SECTION 10. Subdivision (9), Section 811.001, Government Code, is amended.

SECTION 11. Subsection (b), Section 814.104, Government Code, is amended.

SECTION 12. Section 815.505, Government Code, is amended.

SECTION 13. Subsection (a), Section 551.008, Health and Safety Code, is amended to make a conforming

SECTION 13. Same as Senate version.

SECTION 14. Same as Senate version.

SECTION 15. Same as Senate version.

No equivalent provision.

SECTION 21. Same as Senate version.

SECTION 22. Same as Senate version.

SECTION 23. Same as Senate version.

SECTION 24. Same as Senate version.

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change.

No equivalent provision.

SECTION __. Section 42.041(b), Human Resources Code, relating to licensure or accreditation as a child-care facility or child-placing agency, is amended to make a change conforming to the repeal of Section 141.042(d), below. Makes a technical correction and conforming change.

SECTION 25. Same as House version.

No equivalent provision.

SECTION __. Section 42.052(h), Human Resources Code, relating to certification, listing, and registration of certain child-placing agencies and child-care facilities, is amended to make conforming changes.

SECTION 26. Same as House version.

SECTION 14. Section 61.001, Human Resources Code, is amended by amending Subdivisions (2) and (4) and adding Subdivisions (7) and (8) to define the advisory board and the executive commissioner of the commission, the office of inspector general established under Section 61.0451, and the office of ombudsman established under Section 61.0452.

SECTION 16. Same as Senate version except adds only Subdivision (7) to define "office of inspector general."

SECTION 27. Same as Senate version except omits Subdivision (8).

SECTION 15. Amends Sections 61.012 and 61.0121, Human Resources Code, as follows:

SECTION 17. Amends Section 61.012(b), Human Resources Code, as follows:

SECTION 28. Same as Senate version except as follows:

Sec. 61.012. EXECUTIVE COMMISSIONER. Modifies the TYC governing structure to replace its governing board with an executive commissioner who is appointed with the consent of the senate for a term of not

Sec. 61.012(b). Maintains the board governance structure but requires that the board be composed of at least one physician, an experienced member of a victim's advocacy organization, a mental health professional, and

Same as Senate version except also provides that Section 61.012 expires September 1, 2009.

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more than two years expiring February 1 of odd-numbered years and who is a full-time state employee entitled to certain remuneration. Makes conforming changes.

Sec. 61.0121. QUALIFICATIONS FOR EXECUTIVE COMMISSIONER, ADVISORY BOARD MEMBERS, AND EMPLOYEES. Makes conforming changes, including changes conforming to the creation of an advisory board in Section 61.013, Human Resources Code, found in SECTION 17 below.

SECTION 16. Subchapter B, Chapter 61, Human Resources Code, is amended by adding Section 61.0123, REMOVAL FROM OFFICE: EXECUTIVE COMMISSIONER, to set out provisions relating to the removal from office of the executive commissioner.

SECTION 17. Amends Sections 61.013, 61.0151, 61.019, 61.0191, and 61.022, Human Resources Code, as follows:

Sec. 61.013. ADVISORY BOARD. (a) Establishes an advisory board for the commission to adopt policies and

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a current or former prosecutor or judge. Also requires a majority of the board members to be qualified, by experience or education, in the development and administration of programs for the rehabilitation and reestablishment in society of children in the custody of agencies similar in mission and scope to the commission and that at least two of the members of the board have primary experience in a field other than the field of criminal or juvenile justice.

No equivalent provision.

No equivalent provision.

SECTION 18. Amends Sections 61.019 and 61.0191, Human Resources Code, as follows:

No equivalent provision.

CONFERENCE

Same as Senate version except also provides that Section 61.0121 expires September 1, 2009.

SECTION 29. Same as Senate version except title reads REMOVAL OF EXECUTIVE COMMISSIONER FROM OFFICE and also provides that Section 61.0123 expires September 1, 2009.

SECTION 30. Amends Section 61.013, Human Resources Code, as follows.

Same as Senate version except omits the advisory board duty to adopt policies and rules concerning any

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rules concerning any grievances and complaints concerning the commission, as provided by Section 61.034; to advise the executive commissioner on matters concerning the commission; and to assist the executive commissioner in the performance of the executive commissioner's duties. Deletes language relating to designation of the chairman of the board.

(b) Provides that the advisory board is composed of nine members appointed by the governor with the consent of the senate and requires the governor to designate a member of the advisory board as its chair to serve in that capacity at the pleasure of the governor. Makes a conforming change.

(c) Sets out parameters for appointment of advisory board members. Makes a conforming change.

(d) Requires advisory board members to be citizens recognized within their communities for their interest in youth. At least one board member must be a member of a child advocacy group and at least one board member must be a member of a victim's advocacy organization. A majority of the advisory board members must be qualified, by experience or education, in the development and administration of programs for the rehabilitation and reestablishment in society of children in the custody of agencies similar in mission and scope to the commission.

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No equivalent provision.

No equivalent provision.

No equivalent provision. (See Section 61.012, Human Resources Code, found in SECTION 17 above, which requires similar expertise in membership of the governing board as required of the advisory board in Subsection (d).)

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grievances and complaints concerning the commission, as provided by Section 61.034.

Same as Senate version except requires three members of the advisory board to be appointed by the governor, three by the lieutenant governor, and three by the speaker of the house of representatives and requires the appointing authorities to coordinate appointments to ensure the membership meets the requirements of Subsection (d).

Same as Senate version.

Retains the requirement that the advisory board members be citizens recognized within their communities for their interest in youth, but replaces the remaining qualifications with the requirement for advisory board membership to consist of at least one physician, an experienced member of a victim's advocacy organization, a mental health professional, and a current or former prosecutor or judge. Also requires a majority of the board members to be qualified, by experience or education, in the development and administration of programs for the rehabilitation and reestablishment in

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(e)-(h) Set out provisions relating to terms of appointment, frequency of meetings, quorum, and per diem.

Sec. 61.0151. REMOVAL FROM OFFICE; ADVISORY BOARD MEMBERS. Makes conforming changes.

Sec. 61.019. DELEGATION OF POWERS AND DUTIES. (a) Provides that any power, duty, or function of the commission that is not assigned by statute to the *advisory board, the chief inspector general of the office of inspector general, or the chief ombudsman of the office of ombudsman* may be exercised and performed by the executive commissioner.

(b) Authorizes the executive commissioner to delegate to the advisory board or to any employee designated or assigned by the executive commissioner a power, duty, or function of the executive commissioner or the

No equivalent provision.

No equivalent provision.

Sec. 61.019. (a) Same as Senate version, except refers only to the powers, duties, or functions of the *office of inspector general*.

No equivalent provision.

society of children in the custody of agencies similar in mission and scope to the commission and that at least two of the members of the board have primary experience in a field other than the field of criminal or juvenile justice.

Similar to Senate version. Sets out provisions relating to frequency of meetings and per diem and specifies that a member of the advisory board serves at the pleasure of the appointing authority rather than serving for a specific term. Also provides that the section expires September 1, 2009.

Same as House version.

SECTION 31. Amends Section 61.019 to provide that this section expires on September 1, 2009, and as follows:

(a) Same as House version except refers to the powers, duties, or functions of the *chief inspector general of the office of inspector general*.

(b) Same as Senate version except omits the executive commissioner's authorization to delegate to the advisory board and makes conforming changes.

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commission that is not already assigned by statute to the advisory board or that is not assigned by statute to the chief inspector general of the office of inspector general or the chief ombudsman of the office of ombudsman. Makes conforming changes.

Sec. 61.0191. **AUDIT; AUTHORITY OF STATE AUDITOR.** Sets out provisions relating to the authority of the state auditor to audit the financial transactions of the commission.

Sec. 61.022. **ACCESSIBILITY TO PROGRAMS AND FACILITIES.** Makes a conforming change.

No equivalent provision.

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Sec. 61.0191. Same as Senate version except subjects the commission, rather than the financial transactions of the commission, to the audit authority of the state auditor.

No equivalent provision.

SECTION 19. Adds Section 61.023, Human Resources Code, as follows:

Sec. 61.023. **ACCREDITATION BY AMERICAN CORRECTIONAL ASSOCIATION.** Requires the commission, not later than September 1, 2007, to adopt a plan for and begin the process of receiving accreditation by the American Correctional Association for each correctional facility operated by or under contract with the commission.

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Same as House version.

SECTION 32. Same as Senate version.

SECTION 33. Same as House version except also adds Section 61.024 as follows:

Sec. 61.024. **GOVERNANCE OF COMMISSION.** (a) Provides that notwithstanding any other provision of this chapter, effective September 1, 2009, the commission is governed by a board that consists of seven members appointed by the governor with the advice and consent of the senate. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b)-(c) Sets out provisions relating to board member qualifications, meeting requirements, and compensation issues.

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No equivalent provision.

SECTION 20. Section 61.0315, Human Resources Code, is amended as follows:

Sec. 61.0315. REVIEW OF TREATMENT PROGRAMS. (a)-(b) Adds treatment programs for females to this list of treatment programs annually reviewed for effectiveness by the commission.

(c) Requires the commission to offer or make available programs described by Subsection (a) in an adequate manner so that a child in the custody of the commission receives appropriate rehabilitation services recommended for the child by the court committing the child to the commission.

(d) Requires the commission periodically to review,

(d) Provides that effective September 1, 2009, the commission shall employ an executive director, selected by the board, to serve at the will of the board. The executive director shall devote full time to the work of the commission. The executive director is entitled to actual expenses while on commission business.

(e) Provides that effective September 1, 2009, a reference in law to the executive commissioner is a reference to the board in matters concerning the governance of the commission, policymaking functions of the commission, or rulemaking functions of the commission; and a reference in law to the executive commissioner is a reference to the executive director in matters concerning the administrative functions of the commission.

SECTION 34. Same as House version except makes technical corrections.

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SECTION 18. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.0331, Internal Audit; Report, and Section 61.0332, Compliance Reports.

SECTION 19. Section 61.034, Human Resources Code, relating to policies and rules, is amended as follows:

(a)-(b) Except as provided by Subsection (c), assigns policy adoption and rulemaking responsibility to the executive commissioner. Makes conforming changes.

(c) Assigns to the advisory board responsibility for the adoption of all policies relating to all grievances and complaints concerning the commission and requires the board to adopt rules concerning grievance and complaint policies and procedures, including rules concerning the policies and procedures of the office of ombudsman.

SECTION 20. Subsection (b), Section 61.035, Human Resources Code, is amended to provide that commission employees are employed on an at-will basis, except as

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document, and compare the accessibility and funding of treatment programs provided to female and male children committed to the commission.

(e) Requires the commission, if it is unable to offer or make available programs described by Subsection (a) in the manner provided by Subsection (c), to provide a biennial explanatory report to the appropriate senate and house committees.

SECTION 21. Same as Senate version except also adds Section 61.0345, Mission Statement, to require the commission to develop and adopt a statement regarding its role and mission.

No equivalent provision.

SECTION 22. Same as Senate version except also adds Subsection (c) to require the commission to establish procedures and practices governing employment-related

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SECTION 35. Same as House version.

SECTION 36. Same as Senate version.

SECTION 37. Same as House version.

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otherwise provided by this chapter.

SECTION 21. Amends Sections 61.0351, 61.0352, and 61.0354, Human Resources Code, as follows:
Sec. 61.0351. PROFESSIONAL INFORMATION FOR ADVISORY BOARD MEMBERS AND EMPLOYEES. Makes conforming changes.
Sec. 61.0352. DIVISION OF RESPONSIBILITY. Requires the executive commissioner to develop and implement policies that clearly separate the policymaking responsibilities of the executive commissioner, the policymaking responsibilities of the advisory board, and the management responsibilities of the staff of the commission.
Sec. 61.0354. JOB PERFORMANCE EVALUATIONS. Makes a conforming change.

SECTION 22. Subsection (a), Section 61.0355, Human Resources Code, relating to equal employment opportunity policy statement, is amended to make a conforming change.

SECTION 23. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Sections 61.0356, 61.0357, and 61.0386 as follows:

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grievances submitted by commission employees and disciplinary actions within the commission, including a procedure allowing a commission employee to elect to participate in an independent dismissal mediation if the employee is recommended for dismissal.

No equivalent provision.

No equivalent provision.

SECTION 23. Same as Senate version except as follows:

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SECTION 38. Same as Senate version except in Section 61.0352 omits the reference to the policymaking responsibilities of the advisory board.

SECTION 39. Same as Senate version.

SECTION 40. Same as House version except as follows:

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Sec. 61.0356. JUVENILE CORRECTIONAL OFFICERS; STAFFING. Sets out provisions relating to juvenile correctional officers, including requiring the commission to provide each officer at least 300 hours of training before the officer begins independently performing duties at a facility. Among other provisions, requires the executive commissioner to adopt necessary rules to administer this section.

Sec. 61.0357. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW.

(a)-(c) Among other provisions, requires the executive commissioner to review the national criminal history record information of each person who applies for employment with the commission, is employed by the commission, or volunteers with or provides direct delivery of services to children in the custody of the commission.

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Sec. 61.0356. Same as Senate version except specifies that the training must include on-the-job training and imposes the rule adoption requirement on the commission rather than the executive commissioner. Also, requires the commission to rotate the assignment of each juvenile correctional officer at an interval determined by the commission so that an officer is not assigned to the same station for an extended period of time and to ensure that at least one officer is assigned to supervise in or near a classroom or other location in which children receive education services or training at the time the children are receiving the education services or training.

Sec. 61.0357. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS.

(a)-(c) Similar to Senate version except imposes the duty of review on the executive director or the executive director's designee and also requires review of the state criminal history record information maintained by the Department of Public Safety and previous and current employment references. Requires such review of information for each person who is an employee, contractor, volunteer, ombudsman, or advocate working for the commission or working in a commission facility or a facility under contract with the commission, provides direct delivery of services to children in the custody of the commission, or has access to records in commission facilities or offices. Makes conforming

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Same as House version.

Same as House version except as follows:

Same as House version except imposes the duty of review on the executive commissioner, rather than the executive director or the executive director's designee and makes conforming changes.

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(d)-(f) Among others provisions, requires the executive commissioner to review, for persons applying for employment or employed by the commission, the person's national criminal history record information on an annual basis and the person's state criminal history record information on a continuing basis not less than once every three months. Allows the executive commissioner to require a job applicant, employee, or volunteer to pay a fee related to the *first* national criminal history record information review.

Sec. 61.0386. ADVOCACY AND SUPPORT GROUPS.

SECTION 24. Sections 61.0423 and 61.044, Human Resources Code, are amended as follows:

Sec. 61.0423. PUBLIC HEARINGS. Makes conforming changes related to reasonable notice for public hearings before the executive commissioner or designee and requires the advisory board to develop and implement policies that provide the public with reasonable notice.

Sec. 61.044. BIENNIAL BUDGET. Makes conforming changes.

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changes.

(d)-(g) Same as Senate version except requires an annual review by the executive director or the executive director's designee of the national criminal history record of each person for whom checks are required. Also, does not include the requirement relating to the review of state criminal history record but does require the commission to ensure that the system used to check state criminal history record information maintained by the department is capable of providing real time arrest information. Allows the commission to require the fee for the annual review.

Sec. 61.0386. Same as Senate version.

SECTION __. Section 61.0423, Human Resources Code, is amended to maintain current law relating to reasonable notice for public hearings before the board and to require the board to ensure that the location of public hearings held in accordance with this section is rotated between municipalities in which a commission facility is located or that are in proximity to a commission facility.

No equivalent provision.

CONFERENCE

Same as House version except imposes the fee on the *first* national criminal history record information review and makes conforming changes.

Same as Senate version.

SECTION 41. Section 61.0423, Human Resources Code, is amended to impose on the executive commissioner the duty to develop and implement reasonable notice policies for the public to appear before the executive commissioner or the designee and requires the executive commissioner to ensure that the location of public hearings held in accordance with this section is rotated between municipalities in which a commission facility is located or that are in proximity to a commission facility.

SECTION 43. Same as Senate version.

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SECTION 25. Adds Sections 61.0451 and 61.0452, Human Resources Code, as follows:

Sec. 61.0451. OFFICE OF INSPECTOR GENERAL. Sets out provisions relating to the establishment of the Office of the Inspector General at the TYC, including authorizing the office to investigate fraud committed by commission employees and requiring, in a subsection that expires February 1, 2009, the office of inspector general or the chief inspector general, as applicable, to provide the joint select committee on the operation and management of the TYC with reports required by this section in addition to the other entities designated as recipients of those reports.

No equivalent provision.

(See Section 61.042, Human Resources Code, that establishes the Office of the Ombudsman at the commission found in this SECTION below.)

HOUSE VERSION

SECTION __. (Part) Adds Section 61.0451, Human Resources Code, as follows:

Sec. 61.0451. Same as Senate version except authorizes the office to investigate crime, rather than fraud, does not include the provision relating to reporting to the joint select committee, and refers to the executive director and board rather than to the executive commissioner and advisory board.

(Remainder of this SECTION continues after SECTION 34 below.)

SECTION 34. Adds Chapter 64, Human Resources Code, Office of the Independent Ombudsman of the Texas Youth Commission, as follows:

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 64.001. DEFINITIONS. Provides that, in this chapter, "commission" means the TYC, "independent ombudsman" means the individual who has been appointed under this chapter to the office of independent ombudsman, and "office" means the office of independent ombudsman created under this chapter.

Sec. 64.002. ESTABLISHMENT; PURPOSE. Provides that the office of independent ombudsman is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children

CONFERENCE

SECTION 42. (part) Same as House version except makes conforming changes related to having an executive commissioner rather than an executive director and having an advisory board rather than a board.

SECTION 56. Same as House version.

Same as House version.

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No equivalent provision.

committed to the commission, including a child released under supervision before final discharge.

Sec. 64.003. INDEPENDENCE. Provides that the independent ombudsman in the performance of its duties and powers under this chapter acts independently of the commission and that funding for the independent ombudsman is appropriated separately from funding for the commission.

Same as House version.

No equivalent provision.

SUBCHAPTER B. APPOINTMENT AND MANAGEMENT OF OFFICE

Sec. 64.051. APPOINTMENT BY GOVERNOR. Provides for the appointment and reappointment of the independent ombudsman for two-year terms expiring February 1 of odd-numbered years.

Sec. 64.052. ASSISTANTS. Allows the independent ombudsman to hire assistants to perform the duties and exercise the powers of the independent ombudsman under certain conditions.

Sec. 64.053. CONFLICT OF INTEREST. Sets out conflict of interest provisions related to the independent ombudsman and an assistant to the independent ombudsman.

Sec. 64.054. SUNSET PROVISION. Subjects the office to sunset review and sets out the sunset review schedule.

Sec. 64.055. REPORT. (a) Requires the independent ombudsman to submit to the governor, the lieutenant governor, the state auditor, and each member of the

Same as House version except amends the title of Section 64.051 to read APPOINTMENT OF INDEPENDENT OMBUDSMAN and in added Section 64.051(c) provides that, notwithstanding Subsection (a), as soon as practicable after the effective date of this section, the executive commissioner shall appoint the independent ombudsman for a term of office expiring February 1, 2009; that as provided by Subsection (a), the governor shall appoint the independent ombudsman with the advice and consent of the senate for each of the independent ombudsman's subsequent terms of office; and that this subsection expires March 1, 2009.

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legislature a quarterly report that is both aggregated and disaggregated by individual facility and describes: (1) the work of the independent ombudsman; (2) the results of any review or investigation undertaken by the independent ombudsman, including reviews or investigation of services contracted by the commission; and (3) any recommendations that the independent ombudsman has in relation to the duties of the independent ombudsman.

(b) Requires the independent ombudsman to report immediately to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, and the office of the inspector general of the commission any particularly serious or flagrant: (1) case of abuse or injury of a child committed to the commission; (2) problem concerning the administration of a commission program or operation; (3) problem concerning the delivery of services in a facility operated by or under contract with the commission; or (4) interference by the commission with an investigation conducted by the office.

No equivalent provision.

Sec. 64.056. COMMUNICATION AND CONFIDENTIALITY. (a) Requires the commission to allow any child committed to the commission to communicate with the independent ombudsman or an assistant to the ombudsman and provides that the communication may be in person, by mail, or by any other means and is confidential and privileged.

Same as House version.

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(b) Provides that the records of the independent ombudsman are confidential, except that the independent ombudsman shall share with the office of inspector general of the commission a communication with a child that may involve the abuse or neglect of the child and disclose its nonprivileged records if required by a court order on a showing of good cause.

(c) Allows the independent ombudsman to make reports relating to an investigation public after the investigation is complete but only if the names of all children, parents, and employees are redacted from the report and remain confidential.

No equivalent provision.

Sec. 64.058. RULEMAKING AUTHORITY. Sets out the rulemaking authority of the office.

Sec. 64.059. AUTHORITY OF STATE AUDITOR. Subjects the office to audit by the state auditor.

Same as House version.

Sec. 61.0452. OFFICE OF OMBUDSMAN. (a) Provides that the office of ombudsman is established at the commission for the purpose of:

SUBCHAPTER C. DUTIES AND POWERS

Sec. 64.101. DUTIES AND POWERS. (part) (a) Requires the independent ombudsman to:

Same as House version.

(1) evaluating the delivery of services to children committed to the commission.

(1) review the procedures established by the commission and evaluate the delivery of services to children to ensure that the rights of children are fully observed.

Same as House version.

(2) receiving and reviewing complaints concerning commission actions.

(2) review complaints filed with the independent ombudsman concerning the actions of the commission and investigate each complaint in which it appears that a

Same as House version.

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child may be in need of assistance from the independent ombudsman.

(3) conducting investigations of complaints if the office determines that a child committed to the commission or the child's family may be in need of assistance from the office or a systemic issue in the commission's provision of services is raised by a complaint.

(3) substantially the same as Senate version except excludes complaints alleging criminal behavior from the complaints to be investigated.

Same as House version.

(4) making an appropriate referral or providing assistance to a child committed to the commission or to the child's family if after an investigation the ombudsman determines the child or the child's family is in need of assistance.

(5) provide assistance to a child or family who the independent ombudsman determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child.

Same as House version.

(5) advocating the best interests of the child in the process of providing assistance to a child or the child's family.

No equivalent provision.

Same as House version.

(6) periodically reviewing facilities operated by or under contract with the commission and the operating procedures of such facilities.

(4) review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by the commission, whether public or private, to ensure that the rights of children are fully observed.

Same as House version.

No equivalent provision.

(6) review court orders as necessary to fulfill its duties.
(7) recommend changes in any procedure relating to the treatment of children committed to the commission.
(8) make appropriate referrals under any of the duties

Same as House version.

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and powers listed in this subsection.

(7) *supervising advocates* in their representation of children committed to the commission in internal administrative and disciplinary hearings.

(9) substantially the same as Senate version except relates to *supervising assistants who serve as advocates*.

Same as House version.

(8) includes in the purposes for which the office of the ombudsman was established taking appropriate actions to advise children committed to the commission, the parents or guardians of the children, and commission employees of the services of the office of ombudsman, the purpose of the office, and the procedures to follow in contacting the office.

Sec. 64.057. PROMOTION OF AWARENESS OF OFFICE. Requires the independent ombudsman to promote awareness among the public and the children committed to the commission of how the office may be contacted, the purpose of the office, and the services the office provides.

Same as House version.

(b) Requires the office of ombudsman to report the results of an investigation conducted under this section to the executive commissioner, the advisory board, and the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities.

No equivalent provision. (Similar to requirements outlined in Section 64.055(a)(2), Human Resources Code, found in this SECTION above.)

Same as House version.

No equivalent provision.

Sec. 64.101 (part) (b) Allows the independent ombudsman to apprise persons who are interested in a child's welfare of the rights of the child.
(c) To assess if a child's rights have been violated, allows the independent ombudsman, in any matter that does not involve alleged criminal behavior, to contact or consult with an administrator, employee, child, parent, expert, or any other individual in the course of its

Same as House version.

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investigation or to secure information.

(d) Notwithstanding any other provision of this chapter, prohibits the independent ombudsman from investigating alleged criminal behavior.

No equivalent provision.

(c) Notwithstanding any other law, allows the office of ombudsman to access, inspect, or copy any record necessary to carry out the responsibilities provided under this section.

Sec. 64.103. TRAINING. Requires annual training sessions for the independent ombudsman and allows participation in other appropriate professional training.

Same as House version.

SUBCHAPTER D. ACCESS TO INFORMATION

Sec. 64.151. ACCESS TO INFORMATION OF GOVERNMENTAL ENTITIES. (a) Requires the commission to allow the independent ombudsman access to its records relating to the children committed to the commission.

(b) Requires the Department of Public Safety to allow the independent ombudsman access to the juvenile justice information system established under Subchapter B, Chapter 58, Family Code.

(c) Requires a local law enforcement agency to allow the independent ombudsman access to its records relating to any child in the care or custody of the commission.

Sec. 64.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES. Entitles the independent ombudsman to access to the records of a private entity that relate to a child committed to the commission.

Same as House version.

(d) Provides that in performing the responsibilities provided under this section, an employee of the office of

No equivalent provision.

Same as House version.

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ombudsman may communicate privately with a person who has received or is receiving services from the commission. A communication described by this subsection is confidential and not subject to disclosure under Chapter 552, Government Code.

(e) Makes certain information collected by the office of the ombudsman confidential.

(f) Prohibits the commission from discharging or in any manner discriminating or retaliating against an employee who in good faith makes a complaint to the office of independent ombudsman or cooperates with the office in an investigation.

(g) Requires the executive commissioner to select a chief ombudsman and provides that the chief ombudsman may only be discharged for cause.

No equivalent provision.

Sec. 64.056. (d) Same as Senate version except makes conforming changes.

Sec. 64.102. TREATMENT OF COMMISSION EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. Substantially the same as Senate version.

No equivalent provision.

SECTION __. (Part) Adds Sections 61.0452, 61.0461, 61.061, 61.062, 61.0651, Human Resources Code, as follows:

Sec. 61.0452. TOLL-FREE NUMBER. (a) Requires the commission to establish a permanent, toll-free number for the purpose of receiving any information concerning the abuse, neglect, or exploitation of children in the custody of the commission.

(b) Requires the office of inspector general to ensure that the toll-free number is prominently displayed in each

Same as House version.

Same as House version.

Same as House version.

SECTION 42. (part) Same as House version except in Section 61.0452(b) specifies that the access to telephones afforded to children in custody and to employees must be *confidential* access.

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commission facility and children in the custody of the commission and commission employees have access to telephones for the purpose of calling the number.
Sec. 61.0461. EMPLOYMENT OR DESIGNATION OF CHAPLAIN AT CERTAIN COMMISSION FACILITIES. Requires the commission to ensure that a chaplain is employed or formally designated for each commission correctional facility that is an institution.

SECTION 26. Adds Sections 61.061 and 61.062, Human Resources Code, as follows:

Sec. 61.061. PLACEMENT RESTRICTIONS IN COMMISSION FACILITIES. Among other provisions, prohibits the commission from assigning a *male* child younger than 15 years of age to the same correctional facility dormitory as a person who is at least 17 years of age except under certain circumstances.

Sec. 61.062. ESTABLISHMENT OF MINIMUM LENGTH OF STAY.

No equivalent provision.

Sec. 61.061. PLACEMENT IN COMMISSION FACILITIES. Same as Senate version except does not limit the placement restrictions to the assignment of male children and also requires the commission to consider the proximity of the residence of a child's family in determining the appropriate commission facility in which to place a child.

Same as Senate version.

Sec. 61.0651. INFORMATION PROVIDED BY COMMITTING COURT. Provides that in addition to the information provided under Section 61.065, a court that commits a child to the commission shall provide the commission with a copy of the following documents: (1) the petition and the adjudication and disposition orders

Same as House version.

Same as Senate version.

Same as House version.

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for the child, including the child's thumbprint; (2) if the commitment is a result of revocation of probation, a copy of the conditions of probation and the revocation order; (3) the social history report for the child; (4) any psychological or psychiatric reports concerning the child; (5) the contact information sheet for the child's parents or guardian; (6) any law enforcement incident reports concerning the offense for which the child is committed; (7) any sex offender registration information concerning the child; (8) any juvenile probation department progress reports concerning the child; (9) any assessment documents concerning the child; (10) the computerized referral and case history for the child, including case disposition; (11) the child's birth certificate; (12) the child's social security number or social security card, if available; (13) the name, address, and telephone number of the court administrator in the committing county; (14) Title IV-E eligibility screening information for the child, if available; (15) the address in the committing county for forwarding funds collected to which the committing county is entitled; (16) any of the child's school or immunization records that the committing county possesses; (17) any victim information concerning the case for which the child is committed; and (18) any of the child's pertinent medical records that the committing court possesses.

No equivalent provision.

SECTION __. Adds Section 61.055, Human Resources Code, as follows:

SECTION 44. Substantially the same as House version.

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Sec. 61.055. ZERO-TOLERANCE POLICY. Requires the commission to adopt a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact, of children in the custody of the commission. Requires the commission to establish standards for reporting and collecting data on the sexual abuse of children in the custody of the commission, establish procedures for reporting such abuse, and prominently display a specified notice relating to the zero-tolerance policy in a designated location and a minimum number of other places in each facility.

SECTION 27. Sections 61.071 and 61.072, Human Resources Code, are amended. Among other provisions, Section 61.071 requires consideration of the child's medical and treatment history to be included in a study required to be made of each child after commitment to the commission.

No equivalent provision.

SECTION 24. Same as Senate version except also requires consideration of the child's psychiatric history and substance abuse history.

SECTION 25. Adds Section 61.0711, Human Resources Code, as follows:

Sec. 61.0711. HEALTH CARE DELIVERY SYSTEM.

(a) Requires the commission, in providing medical care, behavioral health care, or rehabilitation services, to integrate the provision of those services in an integrated comprehensive delivery system.

(b) The delivery system may be used to deliver any medical, behavioral health, or rehabilitation services

SECTION 45. Same as House version.

SECTION 46. Same as House version.

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provided to a child in the custody of the commission, including: (1) health care; (2) dental care; (3) behavioral health care; (4) substance abuse treatment; (5) nutrition; (6) programming; (7) case management; and (8) general rehabilitation services, including educational, spiritual, daily living, recreational, and security services.

SECTION 28. Section 61.0731, Human Resources Code, is amended.

SECTION 26. Same as Senate version.

SECTION 47. Same as House version.

SECTION 29. Adds Sections 61.0763 and 61.0764, Human Resources Code, as follows:
Sec. 61.0763. RIGHTS OF PARENTS. (a)-(b) Among other provisions, requires the commission to develop a parent's bill of rights for distribution to the parent or guardian of a child committed to the commission. Sets out items that must be included in the bill of rights, including information concerning the review process under Section 61.0815 for children committed to the commission without a determinate sentence.

SECTION 27. (a)-(b) Substantially the same as Senate version except requires the commission to develop the bill of rights in consultation with certain advocacy and support groups and does not require inclusion of information about the review process for children committed without a determinate sentence.

SECTION 48. Same as House version except adds information concerning the indeterminate sentencing structure at the commission, an explanation of reasons that a child's commitment at the commission could be extended, and an explanation of the review process under Sections 61.085 and 61.086 for a child committed to the commission without determinate sentencing to the list of items that must be included in the bill of rights.

(c) Requires the commission on *at least* a quarterly basis to provide to certain persons a report concerning the progress of the child at the commission, including, among other things, information concerning any medical condition of the child.

(c) Same as Senate version except does not include the modifier "at least" and does not require inclusion of information about the child's medical condition.

Same as House version.

No equivalent provision.

(d) Requires the commission to ensure that written

Same as House version.

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information provided to a parent or guardian regarding the rights of a child in the custody of the commission or the rights of a child's parent or guardian, including the parent's bill of rights, is clear and easy to understand.

Sec. 61.0764. COMMISSION CASEWORKERS.

Same as Senate version.

Same as Senate version.

SECTION 30. Subsection (a), Section 61.079, Human Resources Code, is amended.

SECTION 28. Same as Senate version.

SECTION 49. Same as Senate version.

SECTION 31. Subchapter E, Chapter 61, Human Resources Code, is amended.

SECTION 29. Same as Senate version.

SECTION 50. Same as Senate version.

SECTION 32. Adds Sections 61.0814, 61.0815, and 61.0816, Human Resources Code, as follows:

SECTION 30. Same as Senate version except as follows:

SECTION 51. Same as House version except as follows:

Sec. 61.0814. REENTRY AND REINTEGRATION PLAN. Among other provisions, requires the commission to develop a reentry and reintegration plan in a timely manner so that the plan is available when a child is reviewed under Section 61.0815 after completion of the child's minimum length of stay.

Sec. 61.0814. Same as Senate version except does not include the time parameters for developing the plan. Also, stipulates that the plan must be designed to ensure that the child receives an extensive continuity of care in services from the time the child is committed to the commission to the time of the child's final discharge from the commission, and provides that if a program or service in the child's reentry and reintegration plan is not available at the time the child is to be released, the commission shall find a suitable alternative program or service so that the child's release is not postponed.

Same as House version.

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Sec. 61.0815. COMPLETION OF MINIMUM LENGTH OF STAY. (a)-(d) Among other provisions, provides that a member of the panel established to review discharge issues is an employee of the commission. Sets forth the executive commissioner's duties in regard to the panel's creation, composition, and functions.

(e) Requires the commission to maintain statistics on the number of extensions granted, which must include aggregated information concerning, among other things, each child's age and the offense committed.

(f)-(g) Among other provisions, requires the commission to allow a parent, guardian, or designated advocate of a child access to the documents that were used by the panel in the child's review if the parent, guardian, or designated advocate of a child requests access to the documents and to the extent that providing access to the documents is not prohibited by other law. The report provided by the commission must include the contact information for the panel and the commission and a notice that the parent, guardian, or designated advocate of a child may request access to the documents used in the child's review and that the commission shall provide that access if providing access to the document is not prohibited by law.

Sec. 61.0816. REQUEST FOR RECONSIDERATION

HOUSE VERSION

Sec. 61.0815. (a)-(d) Same as Senate version except requires a member of the panel to be a commission employee *who works at the commission's central office* and allocates certain duties to the commission or to the board rather than to the executive commissioner.

(e) Same as Senate version except does not include requirement to collect statistics on age and offense committed.

(f)-(g) Same as Senate version except does not include the provisions relating to access to documents used by the review panel and the report provided by the commission.

Sec. 61.0816. Same as Senate version except requires

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Same as Senate version except requires a member of the panel to be a commission employee *who works at the commission's central office*.

Same as Senate version except does not include requirement to collect statistics on offense committed.

Same as House version.

Same as House version except includes the requirement

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OF EXTENSION ORDER. Among other provisions, requires the executive commissioner to establish a process to request such consideration and requires the commission to maintain statistics on the number of requests for reconsideration of an extension order, that must include aggregated information concerning, among other things, each child's age and offense committed.

SECTION 33. Subsections (e) and (g), Section 61.084, Human Resources Code, are amended.

SECTION 34. Subsection (a), Section 61.0841, Human Resources Code, is amended.

SECTION 35. Subsection (a), Section 61.093, Human Resources Code, relating to a child who has been committed to a commission facility or who has broken a condition of supervision, is amended to make a conforming change and to remove a parole officer from those persons who are authorized to take the child into custody.

SECTION 36. Adds Section 61.098, Human Resources Code, as follows:

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the commission to establish the process and does not include the requirement to collect statistics on age and offense committed.

SECTION 31. Same as Senate version.

SECTION 32. Same as Senate version except also adds Subsection (c) to require the Texas Department of Criminal Justice to grant credit for sentence time served by a person at the commission and in a juvenile detention facility, as recorded by the commission under Subsection (a)(6), in computing the person's eligibility for parole and discharge from the department.

No equivalent provision.

SECTION 33. Adds Sections 61.098 and 61.099, Human Resources Code, as follows:

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to gather statistics on age.

SECTION 52. Same as Senate version.

SECTION 53. Same as House version.

SECTION 54. Same as Senate version except keeps the reference to a parole officer.

SECTION 55. Same as House version.

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Sec. 61.098. PROSECUTION OF CERTAIN CRIMES CONCERNING THE COMMISSION. (a) Authorizes, as appropriate, the district attorney, criminal district attorney, or county attorney *performing the duties of a district attorney* who would otherwise represent the state in the prosecution of an offense or delinquent conduct concerning the commission and described by Article 104.003(a), Code of Criminal Procedure, to request that the special prosecution unit prosecute the offense or delinquent conduct.

(b) Requires the special prosecution unit to provide the executive commissioner and the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a quarterly report concerning offenses or delinquent conduct prosecuted by the special prosecution unit on receiving a request for assistance under this section. Provides that a report is public information under Chapter 552, Government Code, and requires the commission to publish the report on the commission's Internet website. A report must be both aggregated and disaggregated by individual facility and include information relating to: (1) the number of requests for assistance received under this section; (2) the number of cases investigated and the number of cases prosecuted on receiving a request for assistance under this section; (3) the types and outcomes of cases prosecuted by the special prosecution unit on receiving a request for

HOUSE VERSION

Sec. 61.098. CERTAIN CRIMES CONCERNING THE COMMISSION. (a)-(b) Same as Senate version except defines "special prosecution unit" and refers to the listed attorneys as those *representing the state in criminal matters before the district or inferior courts of the county*.

No equivalent provision. (Similar to duties of the counsellor as outlined in Section 41.310(b), Government Code, found in SECTION 8 above.)

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Same as House version.

Same as House version.

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assistance under this section, such as whether the case concerned narcotics or an alleged incident of sexual abuse; and (4) the relationship of a victim to a perpetrator, if applicable.

No equivalent provision.

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(c)-(e) Requires the office of inspector general to prepare and deliver to the board of directors of the special prosecution unit a quarterly report concerning any alleged criminal offense or delinquent conduct concerning the commission and described by Article 104.003(a), Code of Criminal Procedure, that occurred during the preceding calendar quarter and the disposition of any case involving a criminal offense or delinquent conduct concerning the commission and described by Article 104.003(a), Code of Criminal Procedure, that occurred during the preceding calendar quarter. Notwithstanding Subsection (c), requires the office of inspector general immediately to provide the special prosecution unit with a report concerning an alleged criminal offense or delinquent conduct concerning the commission and described by Article 104.003(a), Code of Criminal Procedure, if the chief inspector general reasonably believes the offense or conduct is particularly serious and egregious. Requires the chief inspector general of the office of inspector general, at the direction of the board of directors of the special prosecution unit, to notify the foreman of the appropriate grand jury, in the manner provided by Article 20.09, Code of Criminal Procedure, if: (1) the chief inspector general receives

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Same as House version.

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credible evidence of illegal or improper conduct by commission officers, employees, or contractors that the inspector general reasonably believes jeopardizes the health, safety, and welfare of children in the custody of the commission; (2) the chief inspector general reasonably believes the conduct could constitute an offense under Article 104.003(a), Code of Criminal Procedure, and involves the alleged physical or sexual abuse of a child in the custody of a commission facility or an investigation related to the alleged abuse; and (3) the chief inspector general has reason to believe that information concerning the conduct has not previously been presented to the appropriate grand jury.

No equivalent provision.

Sec. 61.099. DUTY TO FILE COMPLAINT WITH LAW ENFORCEMENT AGENCY. Requires the executive director, if the executive director has reasonable cause to believe that a child in the custody of the commission is the victim of a crime committed at a commission facility, immediately to file a complaint with the appropriate law enforcement agency.

Same as House version except imposes the duty to file a complaint on the executive commissioner, rather than the executive director.

SECTION 37. Subsection (a), Section 141.022, Human Resources Code, is amended to make conforming changes.

No equivalent provision.

SECTION 57. Same as Senate version.

SECTION 38. Subsection (b), Section 141.047, Human

No equivalent provision.

SECTION 58. Same as Senate version.

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Resources Code, is amended to make a conforming change.

SECTION 39. Subsection (c), Section 141.0471, Human Resources Code, is amended to make conforming changes.

SECTION 40. Amends Section 110.302(c), Occupations Code, relating to sex offender treatment provider license, to make conforming changes.

SECTION 41. Subsections (b) and (d), Section 39.04, Penal Code, relating to violations of the civil rights of person in custody and improper sexual activity with person in custody, are amended as follows:

No equivalent provision.

(b)

(d) Provides that the Attorney General of Texas shall have concurrent jurisdiction with law enforcement agencies to investigate violations of this statute involving serious bodily injury or death, except that the attorney

No equivalent provision.

SECTION 35. Amends Section 110.302(c), Occupations Code, to prohibit the TYC from exempting any TYC employee from a licensing requirement imposed by this section for any reason.

SECTION 36. Sections 39.04(a) and (b), Penal Code, are amended as follows:

(a) Makes it an offense under this section for certain correctional personnel to employ, authorize, or induce an individual in TYC custody to engage in sexual conduct or a sexual performance.

(b) Same as Senate version.

No equivalent provision.

SECTION 59. Same as Senate version.

SECTION 60. Same as House version.

SECTION 61. Same as House version.

Same as House version.

Same as Senate version.

Same as House version.

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general shall have concurrent jurisdiction with law enforcement agencies to investigate any violation of this statute involving an individual in TYC custody.

No equivalent provision.

SECTION 42. Subsection (a), Section 43.25, Penal Code, relating to sexual performance by a child, is amended to redefine "child" to include a person in TYC custody regardless of the person's age.

SECTION 43. Section 43.25, Penal Code, is amended by amending Subsections (b), (d), and (g) and adding Subsection (f-1) to provide that the affirmative defense to prosecution provided by Subsection (f)(3) does not apply to the prosecution of an alleged offense involving a child in TYC custody and to make a conforming change.

SECTION 44. The following laws are repealed:
(1) Subsections (s) and (t), Section 54.04, Family Code;
(2) Subsection (k), Section 54.05, Family Code; and
(3) Subdivision (3), Section 61.001, Sections 61.0122, 61.014, 61.015, and 61.017, and Subsection (f), Section 61.084, Human Resources Code.

SECTION 37. Section 39.04(e), Penal Code, is amended by adding Subdivisions (4) and (5) to define "sexual conduct" and "performance" in accordance with the meanings assigned by Section 43.25 and to define "sexual performance" to mean any performance or part thereof that includes sexual conduct by an individual.

No equivalent provision.

No equivalent provision.

SECTION 38. Same as Senate version except does not repeal Sections 61.001(3), 61.0122, 61.014, 61.015, and 61.017, Human Resources Code.

SECTION 62. Same as House version.

Same as House version.

Same as House version.

SECTION 63. (part) Same as Senate version.

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No equivalent provision.

SECTION 45. Requires a person committed to the TYC on the basis of conduct constituting the commission of an offense of the grade of misdemeanor under Section 54.04(d)(2), Family Code, as it existed before the effective date of this Act, to be discharged from TYC custody not later than the person's 19th birthday.

SECTION 46. Sets out saving provision relating to the change in law made by this Act to Sections 39.04(b) and 43.25, Penal Code.

SECTION 47. Transition provision for implementation of Section 61.0356(b), Human Resources Code, as added by this Act.

SECTION 48. Requires the governor, as soon as practicable after the effective date of this Act, to appoint (1) the TYC executive commissioner, as required by Section 61.012, Human Resources Code, as amended by this Act, with a term of office expiring February 1, 2009, and (2) members of the TYC advisory board, as required by Section 61.013, Human Resources Code, as amended by this Act, with terms of office expiring February 1, 2009.

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SECTION __. Section 141.042(d), Human Resources Code, is repealed.

SECTION 39. Same as Senate version.

SECTION 41. Substantially the same as Senate version except saving provision applies only to the change in law made to Section 39.04, Penal Code.

SECTION 43. Substantially the same as Senate version.

No equivalent provision.

CONFERENCE

SECTION 63. (part) Same as House version.

SECTION 64. Same as Senate version.

SECTION 67. Same as House version.

SECTION 69. Same as House version.

SECTION 70. Same as Senate version except omits Subdivision (2), relating to members of the TYC advisory board.

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No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 49. Transition provision.

SECTION 50. Transition provision.

No equivalent provision.

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SECTION 40. Saving provision for the change in law made by Section 54.052, Family Code, as added by this Act, and Section 61.0841(c), Human Resources Code, as added by this Act.

SECTION 42. Requires the TYC to develop and adopt a mission statement, as required by Section 61.0345, Human Resources Code, as added by this Act, on or before October 1, 2007.

SECTION 44. Requires the governor, as soon as practicable after the effective date of this Act, to appoint the independent ombudsman of the TYC, as required by Section 64.051, Human Resources Code, as added by this Act, with a term of office expiring February 1, 2009.

SECTION __. Requires the Health and Human Services Commission, the TYC, and the Texas Juvenile Probation Commission jointly to establish a timetable for the submission of agency reports required by Section 531.016, Government Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 45. Same as Senate version.

SECTION 46. Substantially the same as Senate version.

Same as Senate version.

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SECTION 66. Same as House version.

SECTION 68. Same as House version.

No equivalent provision. (Issue addressed in Section 64.051(c), Human Resources Code, as added in SECTION 56 above.)

SECTION 73. Same as House version.

SECTION 74. Same as Senate version.

SECTION 75. Same as House version.

SECTION 71. Provides that, as soon as practicable after the effective date of this Act:

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SECTION 51. A rule adopted by the TYC before the effective date of this Act is a rule of the TYC executive commissioner or the TYC advisory board, as appropriate, until superseded, modified, or repealed by the executive commissioner or advisory board, as appropriate.

No equivalent provision.

No equivalent provision.

SECTION 47. (a) Requires the board of directors of the special prosecution unit established by Subchapter E, Chapter 41, Government Code, as added by this Act, not later than September 30, 2007, to elect the initial members of the executive board of the board of directors as required by Section 41.304, Government Code, as added by this Act. Requires the board, in electing those members, to specify which members serve terms

- (1) the governor shall appoint three members of the advisory board of the Texas Youth Commission, as required by Section 61.013, Human Resources Code, as amended by this Act;
- (2) the speaker of the house of representatives shall appoint three members of the advisory board of the Texas Youth Commission, as required by Section 61.013, Human Resources Code, as amended by this Act; and
- (3) the lieutenant governor shall appoint three members of the advisory board of the Texas Youth Commission, as required by Section 61.013, Human Resources Code, as amended by this Act.

SECTION 72. Same as Senate version except omits provision relating to rules adopted by the advisory board.

SECTION 76. Same as House version.

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expiring in even-numbered years and which serve terms expiring in odd-numbered years, and the beginning and end dates of the terms served by the members of the executive board.

(b) Requires the board of directors of the special prosecution unit established by Subchapter E, Chapter 41, Government Code, as added by this Act, not later than September 30, 2007, to elect the presiding officer and the assistant presiding officer of the board of directors and the executive board of the board of directors as required by Section 41.305, Government Code, as added by this Act. Requires the board, in electing those officers, to specify the beginning and end dates of the terms served by the officers.

(c) Requires the executive board of the board of directors of the special prosecution unit established by Subchapter E, Chapter 41, Government Code, as added by this Act, as soon as possible after the effective date of this Act, to elect the counsellor as required by Section 41.309, Government Code, as added by this Act.

SECTION 52. Effective date.

SECTION 48. Same as Senate version.

SECTION 77. Same as Senate version.